



# OHIO STATE BOARD OF PHARMACY

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## ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-931227-035)

In The Matter Of:

**JOE E. AUFDERHEIDE, R.Ph.**

2176 Surrywood Drive

Dublin, Ohio 43017

(R.Ph. No. 03-2-11176)

### INTRODUCTION

THE MATTER OF JOE E. AUFDERHEIDE CAME TO HEARING ON JANUARY 24, 1994, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: JOSEPH R. SABINO, R.Ph. (presiding); ROBERT B. CAVENDISH, R.Ph.; PAUL F. LAMPING, R.Ph.; TIMOTHY D. MOORE, R.Ph.; SUZANNE L. NEUBER, R.Ph.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE., PUBLIC MEMBER.

JOE E. AUFDERHEIDE WAS NOT REPRESENTED BY COUNSEL, AND THE STATE OF OHIO WAS REPRESENTED BY GREGG THORNTON, ASSISTANT ATTORNEY GENERAL.

### SUMMARY OF EVIDENCE

#### (A) Testimony

State's Witnesses:

- (1) Robert Amiet, R.Ph., Ohio State Board of Pharmacy
- (2) Joe E. Aufderheide, Respondent

Respondent's Witnesses:

- (1) None

#### (B) Exhibits

State's Exhibits:

- (1) Exhibit 1 - Notice of Opportunity letter dated December 27, 1993.
- (2) Exhibit 1A - Hearing Request letter, not dated, received in the Board office on January 10, 1994.
- (3) Exhibit 1B - Hearing Schedule letter dated January 11, 1994.
- (4) Exhibit 2 - Pharmacist File Front Sheet of Joe Edward Aufderheide showing original date of registration as August 4, 1975.

- (5) Exhibit 3 - Renewal Application for Pharmacist License, No. 03-2-11176, of Joe Edward Aufderheide dated July 18, 1993.
- (6) Exhibit 4 - Prescription number 385-234.
- (7) Exhibit 5 - One 4" x 6" color photograph of two amber bottles of Roxanol, 20mg/ml; and one
- (8) 4" x 6" color photograph of a prescription box from Roxanne Laboratories, Inc. labeled Plain City Pharmacy, prescription number 385-234.
- (9) Exhibit 6 - Handwritten statement of Joe Aufderheide signed and notarized on September 11, 1991.

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 Joe E. Aufderheide was originally licensed in the state of Ohio on August 4, 1975, pursuant to reciprocity, and is currently licensed to practice pharmacy in Ohio.
- (2) Joe E. Aufderheide did, on or about August 16, 1991, while practicing pharmacy at Plain City Pharmacy, misbrand a drug and/or sell a drug that was misbranded as defined by Section 3715.64(A)(11)(d) of the Ohio Revised Code, to wit: when presented with prescription number 385-234 written for 250ml of Morphine Sulfate Solution 10mg/5ml, Joe E. Aufderheide dispensed 240ml of Roxanol Solution 20mg/ml, thereby causing harm to the patient. Such conduct is in violation of Section 3715.52 of the Ohio Revised Code.

#### CONCLUSION OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes 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.

#### 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 Joe E. Aufderheide:

- (A) On the basis of the Findings of Fact and Conclusion of Law set forth above, the State Board of Pharmacy hereby suspends the identification card held by Joe E. Aufderheide, No. 03-2-11176, for twelve months.
- (B) On the basis of the Findings of Fact and Conclusion of Law set forth above, the State Board of Pharmacy hereby imposes a monetary penalty of \$250.00 due and owing within thirty 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.

(C) Further, the Board will stay eleven months of the twelve-month suspension imposed in paragraph (A) above, and place Joe E. Aufderheide's identification card on probation for the stayed eleven-month period provided that:

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

Pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code, the State Board of pharmacy hereby declares that Joe E. Aufderheide's pharmacist identification card is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns for twelve months, effective as of the date of the mailing of this Order.

Joe E. Aufderheide may not serve as a responsible pharmacist for twelve months, effective as of the date of the mailing of this Order.

Joe E. Aufderheide is hereby advised that 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 shall revoke probation for any violation of the terms of this Order occurring during the probation period.

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

MOTION CARRIED.

SO ORDERED.