



65 S. FRONT STREET, ROOM 504 * COLUMBUS, OHIO 43266-0320 * 614/466-4143

BEFORE THE STATE BOARD OF PHARMACY
(Docket No. D-861219-093)

In The Matter Of:

JOHN F. DOOLITTLE, R.Ph.
14 Portsmouth Road
Gallipolis, Ohio 45631

INTRODUCTION

THE MATTER OF JOHN F. DOOLITTLE CAME TO HEARING ON APRIL 29, 1987 BEFORE THE FOLLOWING MEMBERS OF THE BOARD: GERALD CLOUSE, R.Ph. (presiding); NORMAN LEIBOW, R.Ph.; TIMOTHY MOORE, R.Ph.; BETTY NICHOL, R.Ph.; ROBERT VALENTINE, R.Ph.; JEROME WIESENHAIN, R.Ph.; AND MELVIN WILCZYNSKI, R.Ph. JOSEPH SABINO, R.Ph., MEMBER OF THE BOARD, ABSTAINED FROM PARTICIPATION.

JOHN F. DOOLITTLE WAS REPRESENTED BY DAN KOBIL, AND THE STATE OF OHIO WAS REPRESENTED BY YVETTE MCGEE, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

State's Exhibits

- (1) Exhibit #A - Notice of Opportunity in the matter of Doolittle Pharmacy, 400 Second Avenue, Gallipolis, OH 45631 dated December 19, 1986.
- (2) Exhibit #B - Notice of Opportunity in the matter of John Doolittle, R.Ph., 14 Portsmouth Road, Gallipolis, OH 45631 dated December 19, 1986.
- (3) Exhibit #C - Request for hearing from Mr. Doolittle dated January 15, 1987.
- (4) Exhibit #D - Hearing schedule letter dated January 23, 1987.
- (5) Exhibit #E - Letter from the firm of Baker & Hostetler advising us that they were to be the attorney of record dated February 3, 1987.
- (6) Exhibit #F - Hearing schedule letter dated March 27, 1987.
- (7) Exhibit #1 - Renewal card showing Mr. Doolittle as responsible pharmacist of Doolittle Pharmacy.
- (8) Exhibits #2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 are all containers of drugs.
- (9) Exhibit #16 - Copy of inspection sheet made at Doolittle Pharmacy on 7/16/86 by Agent Padgett and the response to the pink sheet by Mr. Doolittle.

Respondent's Exhibits

- (1) Exhibit #A, B, C & D - Picture of changes made to the pharmacy.
- (2) Exhibit #DD - Affidavit of Robin Crews.
- (3) Exhibit #E - Affidavit of Jan Doolittle.
- (4) Exhibit #F - Statement of Terry Taylor.
- (5) Exhibit #G - Statement of Lola Burchett.
- (6) Exhibit #H - Response to pink sheet issued to Doolittle Pharmacy by Agent Padgett.

FINDINGS OF FACT

- (1) From the evidence presented, the State Board of Pharmacy finds that the records of the Board reflect the fact that John F. Doolittle is the owner of Doolittle Pharmacy, 400 Second Avenue, Gallipolis, Ohio 45631, Terminal Distributor of Dangerous Drugs License No. 02-344850; the responsible pharmacist pursuant to Section 4729.55 of the Revised Code; and, the pharmacist in full and actual charge of such pharmacy pursuant to Section 4729.27 of the Revised Code.
- (2) From the evidence presented, the State Board of Pharmacy finds that John F. Doolittle did, on or about July 15, 1986, illegally possess and hold for sale at Doolittle Pharmacy, 400 Second Avenue, Gallipolis, Ohio 45631, the following drug samples:

Adria Laboratories, Inc.

15,750 ml	KAOCHLOR 20mg
1,020 ml	KAON Elixir
4,320 ml	KAON-CL 40mg
2,972 tablets	KAON-CL-10
1,560 tablets	KAON-CL 6.7mg
956 tablets	AXOTAL
700 tablets	ILOPAN-CHOLINE
548 tablets	KAON
384 tablets	KAON 5meq
70 tablets	KAOCHLOR-EFF 20mg
44 tablets	KAOCHLOR-EFF

Such conduct is not specifically provided for by Section 3719.81 of the Ohio Revised Code.

- (3) From the evidence presented, the State Board of Pharmacy finds that John F. Doolittle did, on or about July 15, 1986 at Doolittle Pharmacy, 400 Second Avenue, Gallipolis, Ohio 45631, hold and offer for sale the following misbranded drugs:

<u>Drug</u>	<u>Quantity</u>	<u>Expiration Date</u>
Alupent (unlabeled vial)	10 tablets	NA
Cleocin HCL 150mg	4 capsules	Oct 1981
Codeine Sulfate 60mg	≈ 1,900 tablets	NA
Demerol 100mg	≈ 50 tablets	Mar 1984
Dexamyl Tablets	≈ 500 tablets	NA
Diamox Sequels 500mg	≈ 100 capsules	NA
Empracet #3	≈ 75 tablets	Nov 1983
Euthroid - 1	100 tablets	NA
Hydrodiuril 25mg	≈ 500 tablets	NA
Isordil Chewable 10mg	11 tablets	NA
Mebaral 50mg	≈ 75 tablets	NA
Meproamate 200mg	≈ 100 tablets	Aug 1984
Navane 1mg	≈ 60 capsules	Dec 1982
Placidyl 100mg	≈ 75 capsules	NA
Placidyl 200mg	≈ 75 capsules	NA
Placidyl 750mg	≈ 35 capsules	NA
Procan SR 250mg	17 tablets	Covered
Proloid 16mg	≈ 100 tablets	NA
Proloprim 100	≈ 25 tablets	Dec 1985
Quinaglute	13 tablets	NA
Renese 4mg	≈ 25 tablets	NA
Sparine 25mg	≈ 75 tablets	Feb 1983
Sparine 100mg	≈ 90 tablets	Feb 1983
Thiosulfil Forte 0.5g	100 tablets	NA
Tranxene 15mg	100 capsules	Jun 1982
Zactirin Compound	100 tablets	NA

≈ = approximately

NA= Not Available

These drugs were misbranded, in that they were not in the original manufacturer's containers and were not labeled as required by the Federal Food, Drug, and Cosmetic Act and Chapter 3715. of the Ohio Revised Code. Such conduct is in violation of Ohio Revised Code Section 3715.64(A), and is prohibited by Section 3715.52 of the Ohio Revised Code.

(4) From the evidence presented, the State Board of Pharmacy finds that John F. Doolittle did, on or about July 15, 1986 at Doolittle Pharmacy, 400 Second Avenue, Gallipolis, Ohio 45631, hold and offer for sale the following adulterated drugs:

<u>Drug</u>	<u>Quantity</u>	<u>Expiration Date</u>
Amytal 15mg	≈ 850 tablets	Jan 1978
Amytal Sodium 65mg	≈ 100 capsules	Jan 1977
Benzedrine 10mg	≈ 75 tablets	NA
Benzedrine 10mg	≈ 100 tablets	NA
Benzedrine 15mg	50 capsules	NA

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<u>Drug</u>		<u>Quantity</u>	<u>Expiration Date</u>
Codeine Sulfate 15mg	≈	120 tablets	Jan 1984
Demerol 50mg/ml		90 ml	Jul 1981
Demerol 100mg/ml		120 ml	3/83 & 4/86
Demerol 100mg/ml		40 ml	NA
Demerol 100mg/ml		20 ml	NA
Dexamyl #1	≈	450 capsules	NA
Dexamyl #2	≈	300 capsules	NA
Dexedrine 5mg	≈	25 capsules	NA
Dexedrine 10mg	≈	60 capsules	NA
Morphine Sulfate 30mg		100 tablets	07/01/86
Nembutal 30mg	≈	75 capsules	NA
Nembutal 50mg	≈	25 capsules	NA
Preludin 25mg	≈	300 tablets	NA
Quaalude 300mg		56 tablets	Jan 1982
Seconal 50mg	≈	50 capsules	04/01/86
Seconal 50mg		100 capsules	07/01/79
Tuinal 200mg		100 capsules	Jan 1985
Tuinal 200mg	≈	75 capsules	Jan 1985
Tylox		300 capsules	May 1980
Mebaral		250 tablets	Oct 1985
Noctec 500mg	≈	50 capsules	May 1986
Phenergan VC Exp w/Codeine		8 ounces	Nov 1984
Plegine 35mg		200 tablets	NA
Belladonna Tincture		8 ounces	Jan 1985
Choledyl Elixir 100mg/5ml		15 ounces	Mar 1986
Demulen - 28		5 cycles	Jul 1983
Demulen - 28		10 refill packs	Jan 1983
Demulen - 28		4 refill packs	Feb 1976
Diupres - 500	≈	300 tablets	Apr 1984
Duvoid 25mg		8 tablets	Dec 1985
Elavil 150mg		50 tablets	Apr 1980
Erythromycin 250mg		100 tablets	05/01/86
Erythromycin 250mg		25 tablets	05/01/86
Furacin		16 ounces	May 1978
Hydrocortisone USP		25 grams	Jan 1982
Hydrodiuril 100mg	≈	75 tablets	May 1984
Imipramine HCl 10mg	≈	900 tablets	NA
Imuran 50mg		100 tablets	Sep 1984
K-Kyte CL		30 tablets	Jun 1984
Kolyum		5 ounces	Aug 1984
Kolyum		8 ounces	Aug 1984
Kolyum		64 ounces	Aug 1984
Milpath 400		100 tablets	Jul 1985
Naldecon CX		2 ounces	Jun 1985
Naldecon CX		32 ounces	Jun 1985
Naldecon DX		4 ounces	Jan 1986
Neptazane 50mg		25 tablets	Nov 1984

<u>Drug</u>	<u>Quantity</u>	<u>Expiration Date</u>
Ovcon - 35	2 cycles	Feb 1984
Ovcon - 50	2 cycles	Dec 1984
Ovulen - 20	3 cycles	Jan 1981
Ovulen - 28	4 cycles	Feb 1984
Paregoric	2 ounces	Feb 1986
Phenergan 6.25mg	1/2 ounce	Jul 1982
Phenergan Expectorant	16 ounces	Dec 1985
Phenergan	8 ounces	Dec 1985
Phenergan Pediatric	3 ounces	NA
Proloprim 200mg	≈ 50 tablets	Apr 1986
Renoquid 250mg	≈ 43 tablets	Mar 1984
Synthroid 0.3mg	≈ 75 tablets	NA
Tofranil 10mg	≈ 35 tablets	Jul 1982
Triavil 4 - 10mg	≈ 300 tablets	Apr 1979
Twin - K - Cl	8 ounces	Jun 1983

≈ = approximately
 NA= Not Available

These drugs were adulterated, in that they were held for sale after the expiration date stated by the manufacturer in its labeling. Such conduct is in violation of Ohio Revised Code Section 3715.63(E), and is prohibited by Section 3715.52 of the Ohio Revised Code.

(5) From the evidence presented, the State Board of Pharmacy finds that John F. Doolittle, as the responsible pharmacist required by Section 4729.55 of the Ohio Revised Code and the pharmacist-in-charge pursuant to Section 4729.27 of the Ohio Revised Code, did violate Ohio Revised Code Chapter 4729. and Ohio Administrative Code Rule 4729-9-01, in that Mr. Doolittle did not maintain all areas where drugs were stored in a clean and orderly condition.

(6) From the evidence presented, the State Board of Pharmacy finds that John F. Doolittle, as the owner of, and responsible pharmacist required by Section 4729.55 of the Ohio Revised Code for, Doolittle Pharmacy, 400 Second Avenue, Gallipolis, Ohio 45631, did violate Ohio Revised Code Chapter 4729., in that Mr. Doolittle did not provide adequate safeguards to prevent the sale or other distribution of dangerous drugs by any person other than a pharmacist.

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 (3) through (6) of the Findings Of Fact constitutes violating the provisions of Chapter 4729. of the Revised Code.

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- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraph (2) of the Findings Of Fact constitutes violating the provisions of Chapter 3719. of the Revised Code.
- (3) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraphs (3) and (4) of the Findings Of Fact constitutes violating the provisions of Chapter 3715. of the 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. 03-2-13693, held by John F. Doolittle:

(A) On the basis of paragraph (1) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby suspends the pharmacist identification card of John F. Doolittle for five years, effective September 1, 1987.

(B) On the basis of paragraphs (2) and (3) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby imposes a monetary penalty of one thousand dollars (\$1,000.00).

(C) Further, the Board suspends the suspension and the monetary penalty on the condition that John F. Doolittle:

- (1) takes and successfully completes a Jurisprudence examination during the Board's August, 1987 meeting;
- (2) does not violate the 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.

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.

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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: JUNE 29, 1987

FZW/sb

By *Franklin Z. Wickham*
Franklin Z. Wickham, Executive Director

cc: Yvette McGee, Assistant Attorney General
Dan Kobil, Attorney For Respondent