OHIO STATE BOARD OF PHARMACY

77 S. High St., 17th Floor; Columbus, Ohio 43266-0320
Telephone: 614/466-4143 FAX: 614/752-4836
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ORDER OF THE STATE BOARD OF PHARMACY
(Docket No. D-941031-021)

In The Matter Of:

THOMAS F. HAMILTON, R.Ph.
3666 Minor Road
Copley, Ohio 44321
(R.Ph. No. 03-2-14044)

INTRODUCTION

THE MATTER OF THOMAS F. HAMILTON CAME ON FOR CONSIDERATION ON APRIL 27, 1995, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: RUTH A. PLANT, R.Ph. (presiding); ROBERT B. CAVENDISH, R.Ph.; JOHN L. HANNA, R.Ph.; PAUL F. LAMPING, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; JOSEPH J. MASLAK, R.Ph.; WAYNE C. MILLER, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

THOMAS F. HAMILTON WAS NOT PRESENT NOR WAS HE REPRESENTED BY COUNSEL, AND THE STATE OF OHIO WAS REPRESENTED BY ROBERT J. McCLAREN, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

(1) Franklin Z. Wickham, Ohio State Board of Pharmacy
(2) James Reye, Ohio State Board of Pharmacy
(3) Robert Kerek, Pharmacist's Rehabilitation Organization

Respondent's Witnesses:

(1) None

(B) Exhibits

State's Exhibits:

(1) Exhibit 1--Summary Suspension Order/Notice of Opportunity letter dated October 31, 1994.
(2) Exhibit 1A--Letter from Thomas F. Hamilton dated November 23, 1994.

(3) Exhibit 2--Pharmacist File Front Sheet of Thomas F. Hamilton showing original date of registration as March 2, 1981.
(4) Exhibit 2A--Renewal Application for Pharmacist License, No. 03-2-14044, for a license to practice pharmacy in Ohio from September 15, 1994, to September 15, 1995, of Thomas F. Hamilton dated July 6, 1994.
(5) Exhibit 3--Microcassette tape recording of telephone conversation between Thomas F. Hamilton and James Reye on October 19, 1994.
(6) Exhibit 4--Copy of Bio-Analytical Technologies drug screen report, Patient I.D. No. 268-52-4116, dated September 23, 1994.
(7) Exhibit 5--Two-page letter from Thomas F. Hamilton dated October 6, 1994; and two-page verification of attendance at AA/NA of Thomas F. Hamilton dated from July 8, 1994, through October 4, 1994.
(8) Exhibit 6--Two-page handwritten statement of Lesli N. Eisenhart signed and notarized on October 24, 1994.
(9) Exhibit 7--Order of the State Board of Pharmacy, Docket No. D-910322-065, of Thomas F. Hamilton dated August 16, 1991.
(10) Exhibit 7A--Order of the State Board of Pharmacy, Docket No. D-920707-005, of Thomas F. Hamilton dated October 27, 1992.
(11) Exhibit 8--Handwritten statement of Matthew P. Finneran, M.D. signed and notarized on October 21, 1994.
(12) Exhibit 9--PRO Inc. Client Reporting Sheet of Tom Hamilton for the period from July 1, 1994, to September 30, 1994; and PRO Inc. Client Monitoring Sheet of Tom Hamilton for the weeks of July 2, 1994, through October 1, 1994.
(13) Exhibit 10--Prescription No. C667127.
(14) Exhibit 11--Prescription No. C666831.
(15) Exhibit 12--Ritzman Pharmacy #1, Rebill Register; Audit Report:N/H Totals; Audit Report: Retail Totals; Audit Report:Grand Totals; and eighteen-page Rx Register dated September 1, 1994.
(16) Exhibit 13--Ritzman Pharmacy #1, twenty-page Rx Register and Rebill Register dated August 15, 1994.
(17) Exhibit 14-- Ritzman Pharmacy #1, seventeen-page Rx Register; Rebill Register; Audit Report:N/H Totals; Audit Report:Retail Totals; and Audit Report:Grand Totals dated August 12, 1994.
(18) Exhibit 15--Two-page handwritten statement of Cynthia Leatherman signed and notarized on November 10, 1994.
(19) Exhibit 16--Two-page handwritten statement of Willie Beecher signed and notarized on November 10, 1994.
(20) Exhibit 17--Handwritten statement of Dr. Calvin R. Brown signed and notarized on October 21, 1994.
(21) Exhibit 18--Ritzman Pharmacy #1, three-page Record of Prescriptions for Willie Beecher from January 1, 1992, to November 3, 1994.
(22) Exhibit 19--Two-page handwritten statement of Eric Ritzman signed and notarized on November 3, 1994.
(23) Exhibit 20--Handwritten statement of Mary Jo Miller signed and notarized on November 30, 1994.
(24) Exhibit 21--Two-page handwritten statement of Judy Irene Brooks signed and notarized on November 30, 1994.
(25) Exhibit 22--Two-page Roche Biomedical Laboratories urine drug screen report of Tom Hamilton dated October 24, 1994.

(26) Exhibit 23--Copy of Roche Biomedical Laboratories urine drug screen report of Thomas Hamilton dated September 7, 1994.
(27) Exhibit 24--Five-page copy of handwritten notes of Robert Kerek regarding Tom Hamilton dated from September 20, 1994, through October 18, 1994.

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) On October 31, 1994, Thomas F. Hamilton was notified by letter of his right to a hearing, his rights in such hearing, and his right to submit his contentions in writing.

(2) As demonstrated by return receipt of November 2, 1994, Thomas F. Hamilton received the letter of October 31, 1994, informing him of the allegations against him, and his rights.

(3) Thomas F. Hamilton submitted a letter dated November 23, 1994, setting forth his position and contentions in writing, and has not requested a hearing in this matter.

(4) Records of the Board indicate that Thomas F. Hamilton was originally licensed to practice pharmacy in the state of Ohio on March 2, 1981, and that on October 31, 1994, Thomas F. Hamilton's license was summarily suspended in accordance with Section 3719.121(B) of the Ohio Revised Code.

(5) Thomas F. Hamilton is addicted to and abusing controlled substances and/or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy, to wit: Thomas F. Hamilton did, on or about April, 1994, enter into a detoxification program at Edwin Shaw for a period of three days due to a relapse in his drug addiction. Thomas F. Hamilton has previously been disciplined by this Board for his drug addiction on or about August 16, 1991. Further, due to his addiction Thomas F. Hamilton has submitted false drug test reports to the Board, Thomas F. Hamilton has falsified Alcoholics Anonymous attendance sheets, and Thomas F. Hamilton has falsified prescriptions for controlled substances.

(6) Thomas F. Hamilton did, on or about September 20, 1994, knowingly make a false statement with the purpose to mislead a public official in performing his official function, to wit: Thomas F. Hamilton submitted a false drug test form to his PRO (Pharmacist Rehabilitation Organization, Inc.) intervenor, who was in turn to submit it to the Board, with the purpose to mislead the Board's probation officer in his duties of monitoring Mr. Hamilton's Board-imposed probation. Such conduct is in violation of Section 2921.23 of the Ohio Revised Code.

(7) Thomas F. Hamilton did, on or about August 12, 1994, intentionally make or knowingly possess a false or forged prescription, to wit: Thomas F. Hamilton created false prescription number C667127 for 25 unit doses of Fiorinal with Codeine, a schedule III controlled substance. Such conduct is in violation of Section 2925.23 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 (5) through (7) 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 paragraphs (5) and (6) of the Findings of Fact constitute being addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy as provided in Division (A)(3) 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 paragraph (7) of the Findings of Fact constitutes being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of provisions of Chapter 2925. 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 3719.121 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension Order issued October 31, 1994.

Pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy takes the following actions in the matter of Thomas F. Hamilton:

(A) On the basis of the Findings of Fact and paragraph (1) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes the pharmacist identification card, No. 03-2-14044, held by Thomas F. Hamilton effective as of the date of the mailing of this Order.

(B) On the basis of the Findings of Fact and paragraph (2) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes the pharmacist identification card, No. 03-2-14044, held by Thomas F. Hamilton effective as of the date of the mailing of this Order.

(C) On the basis of the Findings of Fact and paragraph (3) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes the pharmacist identification card, No. 03-2-14044, held by Thomas F. Hamilton effective as of the date of the mailing of this Order.

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 (Aye-7/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.

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 Ohio Revised Code.

BY ORDER OF THE STATE BOARD OF PHARMACY

ORDER MAILED
AND EFFECTIVE: JUNE 30, 1995

CERTIFIED MAIL
Return Receipt
#Z 725 455 646

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

FZW/so

xc: Robert J. McClaren, Assistant Attorney General