



# OHIO STATE BOARD OF PHARMACY

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## ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-930629-099)

In The Matter Of:

**THEODORE PERRY, R.Ph.**

Inmate #278605

Pickaway Correctional Institution

P. O. Box 209

Orient, Ohio 43146

(R.Ph. No. 03-2-15670)

### INTRODUCTION

THE MATTER OF THEODORE PERRY CAME TO HEARING ON JANUARY 27, 1994, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: JOSEPH R. SABINO, R.Ph. (presiding); ROBERT B. CAVENDISH, R.Ph.; PAUL F. LAMPING, R.Ph.; WAYNE C. MILLER, R.Ph.; TIMOTHY D. MOORE, R.Ph.; SUZANNE L. NEUBER, R.Ph.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE., PUBLIC MEMBER.

THEODORE PERRY WAS NOT PRESENT, NOR WAS HE 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) Detective George Rudemiller, Cincinnati Police Department
- (2) Bruce Koehn, Cincinnati Police Department
- (3) Mike Cluxton, Ohio State Board of Pharmacy

Respondent's Witnesses:

- (1) None

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1 - Summary Suspension Order dated June 29, 1993.
- (2) Exhibit 1A - Hearing Request letter dated July 14, 1993.

- (3) Exhibit 1B - Hearing Schedule letter dated July 29, 1993.
- (4) Exhibit 1C - Amendment to Summary Suspension Order letter dated October 1, 1993.
- (5) Exhibit 1D - Continuance Request letter not dated, received in the Board office on October 25, 1993.
- (6) Exhibit 1E - Hearing Schedule letter dated November 4, 1993.
- (7) Exhibit 1F - Pharmacist File Front Sheet of Theodore Perry showing original date of registration as August 8, 1984, and Renewal Application for Pharmacist License, No. 03-2-15670, for a license to practice pharmacy in Ohio from September 15, 1992, to September 15, 1993, dated September 10, 1992.
- (8) Exhibit 2 - Two-page certified Entry Withdrawing Plea of Not Guilty and Entering Plea of Guilty in the Hamilton County Court of Common Pleas, Case No. B-927066, of Theodore Perry dated June 22, 1993.
- (9) Exhibit 3 - Thirteen Accountability Statements dated December 21, 1992, of Maury's Pharmacy, Terminal Distributor License No. 02-577200, for the following drugs: Dilaudid 4mg and Hydromorphone 4mg; Ritalin 10mg and Methylphenidate 10mg; MS Contin and Morphine Sulfate 60mg; MS Contin and Morphine Sulfate 30mg; MS Contin and Morphine Sulfate 15mg; Percodan and Oxycodone w/APAP; Valium 5mg and Diazepam 5mg; Valium 10mg and Diazepam 10mg; Vicodin and Hydrocodone 5mg; Tylenol #4 and Acetaminophen w/Codeine 60mg; Tylenol #3 and Acetaminophen w/Codeine 30mg; Adipex-P and Phentermine 37.5mg; and Percocet and Oxycodone w/Acetaminophen 325mg.

Respondent's Exhibits:

- (1) Exhibit A - Letter from Theodore Perry, not dated, received in the Board office on January 13, 1994.

#### 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 State Board of Pharmacy indicate that Theodore Perry was originally licensed to practice pharmacy in the state of Ohio on August 8, 1984, pursuant to examination, and on June 29, 1993, Mr. Perry's identification card was summarily suspended.
- (2) Theodore Perry was, on or about August 23, 1993, in the Common Pleas Court of Hamilton County, Ohio, convicted of the following felonies:
  - (a) Nine counts of Medicaid Fraud in violation of Section 2913.40 of the Ohio Revised Code, felonies of the 4th degree;
  - (b) Ten counts of False Certification in violation of Section 4729.61 of the Ohio Revised Code, felonies of the 4th degree;
  - (c) One count of Possession of Criminal Tools in violation of Section 2923.24 of the Ohio Revised Code, a felony of the 4th degree;

- (d) Two counts of Drug Abuse in violation of Section 2925.11 of the Ohio Revised Code, felonies of the 4th degree;
- (e) One count of Possession of Criminal Tools in violation of Section 2923.24 of the Ohio Revised Code, a felony of the 4th degree;
- (f) One count of Trafficking in Drugs in violation of Section 2925.03(A)(6) of the Ohio Revised Code, a felony of the 3rd degree; and
- (g) One count of Aggravated Trafficking in violation of Section 2925.03(A)(4) of the Ohio Revised Code, a felony of the 4th degree.

As a result of these felonies, Theodore Perry was sentenced to be incarcerated for a period of two years.

- (3) Theodore Perry is addicted to or abusing liquor and/or drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy, to wit: Theodore Perry is addicted to and has abused Tylenol #4 and Crack Cocaine.

#### CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2)(a) through (2)(g) of the Findings of Fact constitute being guilty of a felony and gross immorality as provided in Division (A)(1) 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 (2)(a) through (2)(g) 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.
- (3) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (3) of the Findings of Fact constitutes being addicted to or abusing liquor and 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.
- (4) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2)(a) through (2)(g) 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 3719.121 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension Order issued June 29, 1993.

Pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy takes the following actions in the matter of Theodore Perry:

- (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 held by Theodore Perry, No. 03-2-15670, 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 held by Theodore Perry, No. 03-2-15670, 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 held by Theodore Perry, No. 03-2-15670, effective as of the date of the mailing of this Order.
- (D) On the basis of the Findings of Fact and paragraph (4) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes the pharmacist identification card held by Theodore Perry, No. 03-2-15670, 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 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.

MOTION CARRIED.

SO ORDERED.