OHIO STATE BOARD OF PHARMACY

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THE STATE BOARD OF PHARMACY
(Docket No. D-910130-058)

In The Matter Of:

MICHAEL HOAR, R.Ph.
1420 N. Mulberry Street
Mt. Vernon, Ohio 43050
(R.Ph. No. 03-2-16686)

INTRODUCTION

THE MATTER OF MICHAEL HOAR CAME TO HEARING ON MARCH 6, 1991 BEFORE THE FOLLOWING MEMBERS OF THE BOARD: JOSEPH R. SABINO, R.Ph. (presiding); GERALD CLOUSE, R.Ph.; NORMAN LEIBOW, R.Ph.; BETTY NICHOL, R.Ph.; AND MELVIN WILCZYNSKI, R.Ph.

MICHAEL HOAR WAS REPRESENTED BY DAVID W. GRAUER, AND THE STATE OF OHIO WAS REPRESENTED BY STEVE DLOTT, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

(1) Jim Reye, Ohio State Board of Pharmacy

Respondent's Witnesses:

(1) Michael Hoar, R.Ph., Respondent

(B) Exhibits

State's Exhibits:

(1) Exhibit A - Notice of Opportunity letter dated January 30, 1991.
(2) Exhibit B - Hearing Request letter received February 8, 1991.
(3) Exhibit C - Hearing Schedule letter dated February 11, 1991.
(4) Exhibit D - Notice of Appearance in the matter of Michael D. Hoar, R.Ph. from David W. Grauer received February 28, 1991.
(5) Exhibit D1 - Certificate of Service from David W. Grauer dated February 28, 1991.
(6) Exhibit E - Hearing Schedule letter to David W. Grauer dated February 28, 1991.

(7) Exhibit E1 - Hearing Schedule letter to David W. Grauer, hand delivered to Squire, Sanders & Dempsey from the Ohio State Board of Pharmacy dated February 28, 1991.
(8) Exhibit 1 - Pharmacist File Front Sheet of Michael Hoar showing original date of registration as March 6, 1987.
(9) Exhibit 2 - Renewal Application For Pharmacist License Number 03-2-16686, received August 17, 1990.
(10) Exhibit 3 - Prescription number 74188.
(11) Exhibit 5 - Duplicate label of prescription number 77634.
(12) Exhibit 6 - Statement of Michael Hoar, given to and notarized by James H. Reye on August 2, 1990.
(13) Exhibit 7 - Amber prescription vial, Number 77634, labeled Carbamazepene 200mg Lem. and dated June 8, 1990.
(14) Exhibit 8 - Receipt to patient David Cunningham for the prescription vial number 77634, dated August 2, 1990.
(15) Exhibit 9 - Two-page statement of Dr. Keith C. Bogart, given to and notarized by James H. Reye on August 8, 1990.
(16) Exhibit 11 - Prescription number 77634.

Respondent's Exhibits:

(1) Exhibit 1 - Seven-page copy of article from U.S.P. D.I., "Approved Drug Products with Therapeutic Equivalence Evaluations", pages I/62, I/10, I/11, I/12, I/13, I/14, and I/15.

FINDINGS OF FACT

(1) From the evidence presented, the State Board of Pharmacy finds that records of the Board indicate that Michael Hoar was originally licensed in the state of Ohio on March 6, 1987, pursuant to examination, and is currently licensed to practice pharmacy in Ohio.

(2) From the evidence presented, the State Board of Pharmacy finds that Michael Hoar did, on or about June 8, 1990, select a generic when refilling a prescription after the prescribing practitioner had written "DAW" on the original prescription, to wit: Michael Hoar refilled prescription 74188, written for Tegretal 200mg, with the generic Carbamazepine 200mg. Such conduct is in violation of Section 4729.38(A)(1) of the Ohio Revised Code.

CONCLUSIONS OF LAW

(1) 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 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.

(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 being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of the provisions of Chapter 4729. of the Revised Code as provided in Division (A)(5) of Section 4729.16 of the Ohio Revised Code.

ORDER

Pursuant to Section 4729.25 of the Ohio Revised Code, the State Board of Pharmacy hereby warns Michael Hoar that the Board has decided to take no action pursuant to Section 4729.16 of the Revised Code at this time; however, the Findings Of Fact and Conclusions Of Law will be kept upon the Board's open file and should Michael Hoar again violate any of the laws or rules which regulate his conduct as a professional pharmacist, the Board of Pharmacy will take action against him to the full extent of the law.

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.

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 497 579 147

ORDER MAILED: April 30, 1991

By Franklin Z. Wickham

Franklin Z. Wickham, Executive Director

FZW/sl

cc: Steve Dlott, Assistant Attorney General
David W. Grauer, Attorney for Respondent; 1300 Huntington Center; 41 S. High St.; Columbus, Ohio 43215