



OHIO STATE BOARD OF PHARMACY

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-Equal Opportunity Employer and Service Provider-

ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-940209-044)

In The Matter Of:

MICHAEL L. GOETTING, R.Ph.

744 Ogden Avenue

Toledo, Ohio 43609

(R.Ph. No. 03-2-16750)

INTRODUCTION

THE MATTER OF MICHAEL L. GOETTING CAME TO HEARING ON JUNE 29, 1994, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: JOSEPH R. SABINO, R.Ph. (presiding); PAUL F. LAMPING, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; WAYNE C. MILLER, R.Ph.; TIMOTHY D. MOORE, R.Ph.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

MICHAEL L. GOETTING WAS REPRESENTED BY RALPH E. BREITFELLER, AND THE STATE OF OHIO WAS REPRESENTED BY AVA SERRANO, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Mark S. Keeley, R.Ph., Ohio State Board of Pharmacy
- (2) Dale Fritz, Ohio State Board of Pharmacy

Respondent's Witnesses:

- (1) Michael L. Goetting, Respondent

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1 - Summary Suspension Order/Notice of Opportunity letter dated February 9, 1994.
- (2) Exhibit 1A - Hearing Request letter dated February 28, 1994.
- (3) Exhibit 1B - Hearing Schedule letter dated March 3, 1994.
- (4) Exhibit 1C - Hearing Schedule letter dated June 17, 1994.

- (5) Exhibit 1D - Pharmacist File Front Sheet of Michael Goetting showing original date of registration as March 6, 1987; and Renewal Application for Pharmacist License, No. 03-2-16750, for a license to practice pharmacy in Ohio from September 15, 1993, to September 15, 1994, of Michael Larry Goetting dated July 29, 1993.
- (6) Exhibit 2 - Microcassette tape recording of confession of Michael Goetting, Case No. 93-1706, dated August 19, 1993.
- (7) Exhibit 3 - Five-page handwritten statement of Michael Goetting signed and notarized on August 19, 1993.
- (8) Exhibit 4 - Prescription number 700598.
- (9) Exhibit 5 - Computer generated label of prescription number 702136.
- (10) Exhibit 6 - Computer generated label of prescription number 702882.
- (11) Exhibit 7 - Rite Aid Pharmacy #2321 Pharmacist's Statement of patient Angie Travis from January 1, 1993, to August 19, 1993.
- (12) Exhibit 8 - Prescription number 705745.
- (13) Exhibit 9 - Prescription number 708672.
- (14) Exhibit 10 - Prescription number 708673.
- (15) Exhibit 11 - Certified Copy of Plea of Guilty in the Court of Common Pleas of Lucas County, Ohio, Case No. CR 94-5162, of Michael Goetting dated January 26, 1994, Certified Copy of Criminal Docket Sheet in the Common Pleas Court, Lucas County, Ohio, Case No. CR 94-5162, of Michael L. Goetting dated January 26, 1994, and Certification dated February 1, 1994; Certified Copy of Judgment Entry of Sentence in the Court of Common Pleas of Lucas County, Ohio, Case No. CR 94-5162, of Michael Goetting dated March 4, 1994, Two-page certified copy of Criminal Docket Sheet in the Common Pleas Court, Lucas County, Ohio, Case No. CR 94-5162, of Michael L. Goetting dated from January 26, 1994, through March 1, 1994, and Certification dated May 19, 1994.

Respondent's Exhibits:

- (1) Exhibit A - Copy of letter from Amy E. Jabbour dated February 4, 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 Board indicate that Michael L. Goetting was originally licensed in the state of Ohio on March 6, 1987, pursuant to examination, and his license to practice pharmacy in Ohio was summarily suspended on February 9, 1994.
- (2) Michael L. Goetting did, on or about January 26, 1994, plead guilty in the Common Pleas Court of Lucas County, Ohio, to felony drug abuse offenses, to wit: three counts of Trafficking, felonies of the fourth degree, in violation of Section 2925.03(A)(1) of the Ohio Revised Code.
- (3) Michael L. Goetting did, on or about the following dates, sell a controlled substance in amounts less than the minimum bulk amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: on the following

sixteen separate occasions Michael L. Goetting sold a schedule V controlled substance to a known drug abuser without prescriptions from practitioners:

<u>Rx. No.</u>	<u>Date</u>	<u>Drug</u>	<u>Quantity</u>
700598	04/28/93	Novadyne DH	120ml
702136	05/18/93	Novadyne DH	120ml
702882	05/27/93	Novadyne DH	240ml
702882R	06/05/93	Novadyne DH	240ml
702882R	06/19/93	Novadyne DH	240ml
705745	06/26/93	Novadyne DH	240ml
705745R	07/02/93	Novadyne DH	240ml
705745R	07/07/93	Novadyne DH	240ml
705745R	07/12/93	Novadyne DH	240ml
705745R	07/16/93	Novadyne DH	120ml
705745R	07/22/93	Novadyne DH	120ml
705745R	07/25/93	Novadyne DH	120ml
708672	07/30/93	Guiatuss AC	120ml
708673R	08/04/93	Novadyne DH	240ml
705745R	08/05/93	Novadyne DH	120ml
708673R	08/09/93	Novadyne DH	240ml

Such conduct is in violation of Section 2925.03(A)(1) of the Ohio Revised Code.

- (4) Michael L. Goetting did, on or about the following dates, intentionally make and/or knowingly possess a false or forged prescription, to wit: on the following dates, Michael L. Goetting created prescriptions for schedule V controlled substances in order to dispense drugs to a known drug abuser when such were not prescribed by a practitioner:

<u>Rx No.</u>	<u>Date</u>	<u>Drug</u>	<u>Quantity</u>
700598	04/28/93	Novadyne DH	120ml
702136	05/18/93	Novadyne DH	120ml
702882	05/27/93	Novadyne DH	240ml
702882R	06/05/93	Novadyne DH	240ml
702882R	06/19/93	Novadyne DH	240ml
705745	06/26/93	Novadyne DH	240ml
705745R	07/02/93	Novadyne DH	240ml
705745R	07/07/93	Novadyne DH	240ml
705745R	07/12/93	Novadyne DH	240ml
705745R	07/16/93	Novadyne DH	120ml
705745R	07/22/93	Novadyne DH	120ml
705745R	07/25/93	Novadyne DH	120ml
708672	07/30/93	Guiatuss AC	120ml
708673R	08/04/93	Novadyne DH	240ml
705745R	08/05/93	Novadyne DH	120ml
708673R	08/09/93	Novadyne DH	240ml

Such conduct is in violation of Section 2925.23(B)(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 paragraph (2) of the Findings of Fact constitutes being guilty of a felony 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 (3) and (4) 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 paragraphs (2) through (4) of the Findings of Fact constitute being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of provisions of Chapters 2925., 3715., and 3719. 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 February 9, 1994.

Pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy takes the following actions in the matter of Michael L. Goetting:

- (A) On the basis on the Findings of Fact and Conclusions of Law set forth above, the State Board of Pharmacy hereby suspends the pharmacist identification card held by Michael L. Goetting indefinitely, effective as of the date of the mailing of this Order.
- (B) The Board will reinstate Michael L. Goetting's license, on February 9, 1995, provided that he takes and successfully completes the state and federal law exams offered by the Board prior to February 9, 1995. If Michael L. Goetting fails to pass the examinations, his license will remain suspended until successful completion is accomplished.
- (C) When Michael L. Goetting's license is reinstated, his identification card will be placed on probation for five years. The terms of probation are as follows:
 - (1) Michael L. Goetting must not violate the drug laws of the state of Ohio, any other state, or the federal government;
 - (2) Michael L. Goetting must abide by the rules of the State Board of Pharmacy; and
 - (3) Michael L. Goetting must comply with the terms of this Order.
 - (4) Pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code, the State Board of pharmacy hereby declares that Michael L. Goetting's pharmacist identification card is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns for the duration of the five-year probation.

(5) Michael L. Goetting may not serve as a responsible pharmacist while on probation.

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 may revoke probation for a violation occurring during the probation period.

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 (Aye-6/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
Franklin Z. Wickham, R.Ph., M.S.; Executive Director

CERTIFIED MAIL
Return Receipt
#Z 784 241 289

ORDER MAILED
AND EFFECTIVE: August 15, 1994

FZW/so

By: 

William T. Winsley, R.Ph., M.S.
Assistant Executive Director

xc: Gregg Thornton, Assistant Attorney General
Ralph E. Breitfeller, Attorney for Respondent; McShane, Breitfeller & Witten; 600 South
High Street; Columbus, Ohio 43215