



OHIO STATE BOARD OF PHARMACY

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ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D940630-093)

In The Matter Of:

JEANETTE MARIE CLIMIE, R.Ph.

(aka Jeanette Marie Erdman)

1465 Michigan Avenue

Columbus, Ohio 43201

(R.Ph. No. 03-2-16950)

INTRODUCTION

THE MATTER OF JEANETTE MARIE CLIMIE CAME ON FOR CONSIDERATION ON APRIL 25, 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.; JOSEPH J. MASLAK, R.Ph.; WAYNE C. MILLER, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

JEANETTE MARIE CLIMIE WAS NOT PRESENT NOR WAS SHE 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) Officer Brad Aleshire, London Police Department
- (2) Franklin Z. Wickham, Ohio State Board of Pharmacy

Respondent's Witnesses:

- (1) None

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Summary Suspension Order/Notice of Opportunity letter dated June 30, 1994.

- (2) Exhibit 1A--Pharmacist File Front Sheet of Jeanette Marie Climie showing original date of registration as June 23, 1987; and Renewal Application for Pharmacist License, No. 03-2-16950, for a license to practice pharmacy in Ohio From September 15, 1993, to September 15, 1994, of Jeanette Marie Climie dated September 11, 1993.
- (3) Exhibit 2--London Police Department Offense Record No. 1923 dated September 1, 1993.
- (4) Exhibit 3--Plastic evidence bag, labeled with a biohazard sticker, containing items seized from Jeanette Climie's purse, contents listed as follows: 5 units of Mepergan Fortis, 6 units of Synalgos DC, 3 units of Tylenol #4, and 2 units of Cafegot.

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 June 30, 1994, Jeanette Marie Climie was notified by letter of her right to a hearing, her rights in such hearing, and her right to submit her contentions in writing.
- (2) Attempts were made to deliver the letter of June 30, 1994, by the United States Postal Service, return receipt requested, on July 2, 1994; July 7, 1994; and July 20, 1994. The letter was returned, marked unclaimed, to the Ohio State Board of Pharmacy on August 1, 1994. Pursuant to Section 119.07 of the Ohio Revised Code, after attempt and failure by the Board to issue a notice required by Chapter 119. by registered mail, return receipt requested, personal service was instituted. As demonstrated by personal delivery record dated August 11, 1994, Jeanette Marie Climie received the letter of June 30, 1994, informing her of the allegations against her, and her rights.
- (3) Jeanette Marie Climie has not responded in any manner to the letter of June 30, 1994, and has not requested a hearing in this matter.
- (4) Records of the Board indicate that Jeanette Marie Climie was originally licensed to practice pharmacy in the state of Ohio on June 23, 1987. In accordance with Section 3719.121(B) of the Ohio Revised Code, the Board determined that there was clear and convincing evidence that the continuation of Jeanette Marie Climie's professional practice and/or her method of distributing controlled substances presented a danger of immediate and serious harm to others; therefore, Jeanette Marie Climie's license was summarily suspended on June 30, 1994.

- (5) Jeanette Marie Climie is addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render her unfit to practice pharmacy, to wit: Jeanette Marie Climie was observed on July 31, 1993, to be under the influence of drugs and/or alcohol while practicing pharmacy; customers of the pharmacy complained to the store manager about her impairment. Jeanette Marie Climie was subsequently sent, by life squad, to the Madison County Hospital where she fled during treatment, and after subsequent apprehension Jeanette Marie Climie had to be physically confined. Drugs of abuse were found to be in Jeanette Marie Climie's possession for which she had no prescription. Jeanette Marie Climie was indicted on February 10, 1994, for theft, and she entered a motion for Treatment in Lieu of Conviction on March 30, 1994, wherein Jeanette Marie Climie admitted that she was either addicted or in danger of becoming drug addicted. Such conduct indicates that Jeanette Marie Climie falls within the ambit of Section 4729.16(A)(3) of the Ohio Revised Code.
- (6) Jeanette Marie Climie did, on or about July 31, 1993, knowingly obtain, possess and/or use a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Jeanette Marie Climie possessed 5 units of Mepergan Fortis, 6 units of Synalgos DC, and 3 units of Acetaminophen with Codeine 60mg without a prescription from a practitioner and not for a legitimate medical purpose. Such conduct is in violation of Section 2925.11 of the Ohio Revised Code.
- (7) Jeanette Marie Climie did, on or about July 31, 1993, with the purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Kroger Pharmacy, beyond the express or implied consent of the owner, to wit: Jeanette Marie Climie stole 15 units of Mepergan Fortis and 8 units of Acetaminophen with Codeine 60mg. Such conduct is in violation of Section 2913.02 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 her 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 (6) 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., 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 30, 1994.

Pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy takes the following actions in the matter of Jeanette Marie Climie:

- (A) On the basis of the Findings of Fact and Conclusions of Law set forth above, the State Board of Pharmacy hereby suspends the pharmacist identification card, No. 03-2-16950, held by Jeanette Marie Climie indefinitely and such suspension is effective as of the date of the mailing of this Order. Pursuant to Rule 4729-9-01(F) of the Ohio Administrative Code, Jeanette Marie Climie may not be employed by or work in a facility licensed by the Board of Pharmacy to possess or distribute dangerous drugs during such period of suspension.
- (B) Twelve months after the effective date of this Order, the Board will consider any petition filed by Jeanette Marie Climie for a hearing, pursuant to Revised Code Chapter 119., upon the question of the reinstatement of her license to practice pharmacy in Ohio. The Board will consider the reinstatement of the license only if the following conditions have been met:
 - (1) Jeanette Marie Climie must enter into a contract, from the effective date of this Order, with a certified Ohio Department of Alcohol and Drug Addiction Services (ODADAS) treatment program acceptable to the Board, for a period of not less than five years and, upon signing, submit a copy of the contract to the Board office. The contract must provide that:
 - (a) random, **observed** urine screens shall be conducted at least every three months. The urinalysis drug screens must include reporting of specific gravity;
 - (b) regular attendance, at least three times per week, at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meetings, and at meetings of a professional support group, is required during outpatient treatment and/or during aftercare;
 - (c) the intervener shall provide copies of all urine screens to the Board of Pharmacy in a timely fashion; and
 - (d) the program shall immediately report to the Board of Pharmacy any violations of the contract.
 - (2) Jeanette Marie Climie must provide, at the time of petitioning the Board for reinstatement, written documentation from her treatment provider regarding compliance with the program pursuant to the contract.

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.

MOTION CARRIED.

SO ORDERED.