



OHIO STATE BOARD OF PHARMACY

77 S. High Street, 17th Floor
Columbus, Ohio 43266-0320
Telephone: 614/466-4143

THE STATE BOARD OF PHARMACY
(Docket No. D-900416-077)

In The Matter Of:

STEVEN M. SCHULTZ, R.Ph.
19512 Hilliard Boulevard
Rocky River, Ohio 44116
(R.Ph. No. 03-2-18141)

INTRODUCTION

THE MATTER OF STEVEN M. SCHULTZ CAME TO HEARING ON JUNE 27, 1990 BEFORE THE FOLLOWING MEMBERS OF THE BOARD: TIMOTHY D. MOORE, R.Ph. (presiding); GERALD CLOUSE, R.Ph.; METTA LOU HENDERSON, R.Ph.; NORMAN LEIBOW, R.Ph.; BETTY NICHOL, R.Ph.; JOSEPH SABINO, R.Ph.; AND ROBERT VALENTINE, R.Ph.

STEVEN M. SCHULTZ WAS REPRESENTED BY DENNIS M. PILAWA AND CLARK D. RICE, AND THE STATE OF OHIO WAS REPRESENTED BY JEANNY EATON, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Frank Bodi - Ohio Board of Pharmacy
- (2) Steven M. Schultz - Respondent

Respondent's Witnesses:

- (1) None

(B) Exhibits

State's Exhibits:

- (1) Exhibit A - Notice of Opportunity letter dated April 16, 1990.
- (2) Exhibit B - Request For Hearing letter dated May 15, 1990.
- (3) Exhibit C - Hearing Schedule letter dated May 30, 1990.
- (4) Exhibit 1 - Letter from Lisa Olney, Administrative Support Staff, Michigan Department of Licensing and Regulation dated April 25, 1990.

- (5) Exhibit 2 - Pharmacist File Front Sheet of Steven M. Schultz showing date registered as January 23, 1990.
- (6) Exhibit 3 - Certified copy of Official Application for transfer of pharmaceutical licensure dated April 12, 1989.
- (7) Exhibit 4 - Diligent Search of Board Records for Steven M. Schultz dated April 13, 1990.
- (8) Exhibit 5 - Plastic bag of 381 prescriptions from Syncor filled by Steven Schultz.
- (9) Exhibit 6 - Two-page Statement of Frank R. Alto, R.Ph. dated August 21, 1989.
- (10) Exhibit 7 - Pharmacist Schedules for the weeks of March 13, 1989, March 20, 1989, and March 27, 1989.
- (11) Exhibit 8 - Two-page Statement of Steven Shultz dated August 9, 1989.

Respondent's Exhibits:

- (1) Exhibit 1 - Twelve-page Hearing Memorandum by Dennis M. Pilawa and Clark D. Rice regarding Steven Schultz; Copy marked Exhibit A of Judgment Entry of Garfield Heights Municipal Court of Cuyahoga County, No. 89-6147, dated January 29, 1990; Copy marked Exhibit B of Judgment Entry of Cleveland Municipal Court, No. 89CRB21079, dated February 28, 1990; Copy marked Exhibit C of letter from Lisa Olney, Administrative Support Staff, Michigan Department of Licensing and Regulation, dated June 13, 1990; Copy marked Exhibit D of letter from David L. Rowland, Administrative Assistant for Legal Affairs, Ohio Board of Pharmacy, dated June 13, 1990.

FINDINGS OF FACT

- (1) From the evidence presented, the State Board of Pharmacy finds that Steven M. Schultz did, between the dates of March 6, 1989 and May 26, 1989, while not being a registered pharmacist or a pharmacy intern under the personal supervision of a registered pharmacist, dispense dangerous drugs, to wit: on seventeen different dates, Steven M. Schultz filled 381 prescriptions while working without an Ohio license at Syncor Nuclear Pharmacy, 1176 E. 38th St., Cleveland, Ohio. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.
- (2) From the evidence presented, the State Board of Pharmacy finds that Steven M. Schultz did, between the dates of July 1, 1989 and August 4, 1989, while not being a registered pharmacist or a pharmacy intern under the personal supervision of a registered pharmacist, dispense dangerous drugs, to wit: on sixteen different dates, Steven M. Schultz filled prescriptions while working without an Ohio license at Mallinckrodt Nuclear Pharmacy, 9455 Midwest Ave., Garfield Heights, Ohio. Such conduct is in violation of Section 4729.28 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 (1) and (2) of the Findings Of Fact constitute 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 (1) and (2) of the Findings Of Fact constitute 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 4729.16 of the Ohio Revised Code, the State Board of Pharmacy takes the following actions concerning the pharmacist license, No. 03-2-18141, held by Steven M. Schultz:

(A) On the basis of paragraph (1) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby suspends the pharmacist identification card held by Steven M. Schultz, effective October 1, 1990, until Mr. Schultz successfully completes the Jurisprudence exam offered by the Board. Further, the State Board of Pharmacy hereby places the identification card held by Steven M. Schultz on probation for a period of one year.

(B) On the basis of paragraph (2) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby imposes a monetary penalty of two thousand five hundred dollars (\$2,500.00), due and owing within thirty (30) days of the issuance of this Order. The monetary penalty should be made payable to the "Treasurer, State of Ohio" and mailed to the State Board of Pharmacy, 77 S. High Street, 17th Floor, Columbus, Ohio 43266-0320, with the enclosed form.

Pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code, the State Board of Pharmacy hereby declares that Steven M. Schultz's pharmacist identification card is not in good standing and thereby denies him the privilege of being a preceptor and training pharmacy interns for a period of one year.

Division (B) of Section 4729.16 of the Revised Code provides in pertinent part that: "Any individual whose identification card is ..., suspended, ..., shall return his identification card and certificate of registration to the offices of the state board of pharmacy within

STEVEN M. SCHULTZ, R.Ph.
Page Four
Order of the Board

ten days after [the effective date] ... 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.

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 497-578 724

ORDER MAILED: AUGUST 21, 1990

FZW/sb

By Franklin Z. Wickham
Franklin Z. Wickham, Executive Director

cc: Jeanny Eaton, Assistant Attorney General
Dennis M. Pilawa and Clark D. Rice, Attorneys for Respondent; 1280
W. Third Street, Cleveland, Ohio 44113