
OHIO STATE BOARD OF PHARMACY

THE STATE BOARD OF PHARMACY
(Docket No. D-900207-063)

In The Matter Of:

PHILIP FRANKLIN
2632 Beacon Hill Dr., Apt. 206
Auburn Hills, Michigan 48057
(D.O.B.: 11/30/52)

INTRODUCTION

THE MATTER OF PHILIP FRANKLIN CAME TO HEARING ON APRIL 24, 1990 BEFORE THE FOLLOWING MEMBERS OF THE BOARD: TIMOTHY 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.; ROBERT VALENTINE, R.Ph.; AND MELVIN WILCZYNSKI, R.Ph.

PHILIP FRANKLIN WAS NOT REPRESENTED BY COUNSEL, AND THE STATE OF OHIO WAS REPRESENTED BY JEANNY EATON, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Philip Franklin, Respondent

Respondent's Witnesses:

- (1) Thomas O'Connor, Redford Community Center

(B) Exhibits

State's Exhibits:

- (1) Exhibit A - Notice of Opportunity for a hearing dated February 7, 1990.
(2) Exhibit B - Hearing Request Letter dated February 20, 1990.
(3) Exhibit C - Hearing Schedule Letter dated March 2, 1990.
(4) Exhibit 1 - Official Application for Transfer of Pharmaceutic Licensure.
(5) Exhibit 2 - Order of Summary Suspension dated May 12, 1982 from the State of Michigan.
(6) Exhibit 3 - Letter from Charles A. Smith, Jr., U.S. Probation Officer, to the Michigan State Board of Pharmacy dated July 23, 1987.
(7) Exhibit 4 - Final Order from the Michigan State Board of Pharmacy, Docket No. 82-231, dated January 25, 1983.

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- (8) Exhibit 5 - Letter from Robert D. Ulieru, Licensing Coordinator, Health Investigation Division of the Department of Licensing & Regulation of the State of Michigan, dated February 28, 1990.

Respondent's Exhibits:

- (1) Exhibit 1 - Letter to Ohio Board of Pharmacy from Respondent, dated December 13, 1989; Letter from the Michigan Department of Licensing & Regulation dated December 1, 1989; Letter from Michigan Department of Licensing & Regulation, dated November 16, 1989; Copies of Final Order Granting Reclassification, Docket No. 89-470, dated August 28, 1989; Final Order from Michigan, Docket No. 82-231, dated January 25, 1983; Michigan Opinion, Docket No. 82-231, dated November 9, 1982; Michigan Order of Summary Suspension dated May 12, 1982; Michigan Complaint dated May 5, 1982; Affidavit of Phillip Maddox, Drug Enforcement Administration, dated April 15, 1982; Final Order Denying Reinstatement from the State of Michigan, Docket No. 84-120, dated July 3, 1985; Michigan Opinion, Docket No. 84-120, dated June 6, 1985; Michigan Notice of Determination and Order of Denial dated August 1, 1984; Order After Remand, H.O. No. 82-231, dated March 29, 1984; Michigan Order Granting Reinstatement, Docket No. 87-166, dated January 29, 1988; Michigan Opinion, Docket No. 87-166, dated December 16, 1987; Transcript of Hearing Record, State of Michigan, Docket No. 89-470, on Philip Franklin dated July 12, 1989; Opinion from State of Michigan, Docket No. 89-470, dated July 12, 1989.
- (2) Exhibit A - Letter from Jerry B. Curlee, Administrative Director, Department of Pharmacy, St. Joseph Mercy Hospital, Pontiac, Michigan dated April 23, 1990.

FINDINGS OF FACT

- (1) From the evidence presented, the State Board of Pharmacy finds that records from the Board of Pharmacy indicate that Philip Franklin was originally licensed in Michigan pursuant to examination on August 17, 1976.
- (2) From the evidence presented, the State Board of Pharmacy finds that Philip Franklin was, on or about May 12, 1982, disciplined by the Michigan Board of Pharmacy for being in violation of Public Health Code 1978 PA 368. Mr. Franklin's license to practice pharmacy in Michigan was suspended.
- (3) From the evidence presented, the State Board of Pharmacy finds that Philip Franklin was convicted of a felony on or about August 23, 1982 by the Honorable Ralph B. Guy, Jr., Federal Judge of the Eastern District Court of Michigan, to wit: unlawful possession of 1000 Desoxyn, a Schedule II controlled substance, with intent to distribute.

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- (4) From the evidence presented, the State Board of Pharmacy finds that Philip Franklin was, on or about January 25, 1983, disciplined by the Michigan Board of Pharmacy for being in violation of the Public Health Code 1978 PA 368. Mr. Franklin's license to practice pharmacy in Michigan was revoked.
- (5) From the evidence presented, the State Board of Pharmacy finds that Philip Franklin did knowingly sell a controlled substance in an amount equal to or greater than three times the bulk amount when his conduct was not in accordance with Chapters 3719. and 4729. of the Revised Code, to wit: Mr. Franklin did sell, without having received a prescription, 1000 tablets of Desoxyn-15mg, 3006 tablets of Tylenol with Codeine #4, 500 tablets of Talwin, and 700 tablets of Pyribenzamine-50mg. Each of these drugs may be sold only upon the prescription of a practitioner. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code.
- (6) From the evidence presented, the State Board of Pharmacy finds that the Ohio Board of Pharmacy may refuse to grant an identification card under Section 4729.16(A) of the Ohio Revised Code, which specifies in pertinent part:

The state board of pharmacy, ..., may ... refuse to grant ... an identification card under this chapter, ... if the board finds a pharmacist ...:

- (1) Guilty of a felony or gross immorality;
- (2) Guilty of dishonesty or unprofessional conduct in the practice of pharmacy;
- (5) 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;
- (7) Section 4729.09 of the Ohio Revised Code states in pertinent part that:

The [Ohio] state board of pharmacy may register an individual as a pharmacist without examination ... if such individual:

- (A) Holds a certificate in good standing to practice pharmacy under the laws of another state, ...;

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(B) Is of good moral character and habit;

CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraphs (2) through (5) of the Findings Of Fact constitutes being guilty of a felony and gross immorality had it occurred in Ohio 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 the conduct set forth in paragraphs (2) through (5) of the Findings Of Fact constitutes being guilty of dishonesty and unprofessional conduct in the practice of pharmacy had it occurred in Ohio 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 the conduct set forth in paragraphs (3) and (5) of the Findings Of Fact constitutes 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 had it occurred in Ohio 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 hereby permits Philip Franklin to reciprocate with the following limitations on his Ohio license until October 28, 1991:

(A) Pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code, the State Board of Pharmacy hereby denies Mr. Franklin the privilege of being a preceptor and training pharmacy interns.

(B) The State Board of Pharmacy hereby denies Mr. Franklin the privilege of being a responsible pharmacist.

THIS ORDER WAS APPROVED BY A VOTE OF THE STATE BOARD OF PHARMACY.

MOTION CARRIED.

SO ORDERED.

OHIO STATE BOARD OF PHARMACY

THE STATE BOARD OF PHARMACY
(Docket No. D-880607-228)

In The Matter Of:

PHILIP FRANKLIN
18143 Filmore
Southfield, Michigan 48075

INTRODUCTION

THE MATTER OF PHILIP FRANKLIN CAME TO HEARING ON JUNE 27, 1988 BEFORE THE FOLLOWING MEMBERS OF THE BOARD: NORMAN LEIBOW, R.Ph. (presiding); GERALD CLOUSE, R.Ph.; TIMOTHY MOORE, R.Ph.; BETTY NICHOL, R.Ph.; JOSEPH SABINO, R.Ph.; ROBERT VALENTINE, R.Ph.; AND JEROME WIESENHAHN, R.Ph.

PHILIP FRANKLIN WAS NOT REPRESENTED BY COUNSEL, AND THE STATE OF OHIO WAS REPRESENTED BY CHRISTOPHER COSTANTINI, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Philip Franklin

Respondent's Witnesses:

- (1) Thomas O'Connor

(B) Exhibits

State's Exhibits:

- (1) Exhibit A - Notice of Opportunity dated June 7, 1988 in the matter of Philip Franklin.
(2) Exhibit B - Hearing request letter dated June 9, 1988.
(3) Exhibit C - Hearing schedule letter dated June 14, 1988.
(4) Exhibit 1 - Letter from Philip Franklin dated May 24, 1988.
(5) Exhibit 2 - Verification of licensure for Philip Franklin from state of Michigan.
(6) Exhibit 3 - Final Order Granting Reinstatement from the State of Michigan in reference Philip Franklin.
(7) Exhibit 4 - Continuing Education certificates.
(8) Exhibit 5 - Final Order from the state of Michigan in reference Philip Franklin.
(9) Exhibit 6 - Final Order Granting Reinstatement from the State of Michigan in reference Philip Franklin.

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Respondent's Exhibits:

- (1) Exhibit 1 - Letter from Philip Franklin dated June 27, 1988; Letter from Patrick Harrington, Attorney; Petition for reinstatement; Letter from Philip Franklin dated March 26, 1987; Letter dated October 28, 1986 from Harry Lebovic, R.Ph.; Letter dated March 24, 1987 from Thomas A. O'Connor, Youth Services Coordinator, Redford Assisting Local Youth; Score report from Michigan Consortium on Substance Abuse Education; Letter dated March 3, 1987 from Myra Luzod, Volunteer Coordinator, Saint Vincent and Sarah Fisher Center; Letter dated March 22, 1987 from Rabbi Shaiall Zachariash; Letter dated November 4, 1986 from Morris Prostack; Letter dated March 16, 1987 from Daniel Simon; Letter dated February 20, 1987 from Richard Hoffmann, Director of Pharmacy, St. Joseph Mercy Hospital; Letter dated February 23, 1987 from Michael Curtis; Letter from Norma Phillips dated March 11, 1987; Letter dated January 16, 1987 from Samuel Herman; Letter dated March 10, 1987 from Roman Franklin; Letter dated March 2, 1987 from LeAnna M. Munn; Letter dated February 20, 1987 from Michael D. Schwartz, Circuit Judge; Letter dated January 15, 1987 from Marvin Berlin; Letter dated March 6, 1987 from Andrew Beider; Letter dated July 15, 1986 from Lary R. Berkower, M.D.; Letter dated September 19, 1985 from John Palmer, Jr.; Letter dated October 21, 1985 from Jean Edwards; Letter dated May 20, 1988 from Jack McCracken, Lane Drug Company; Letter dated June 1, 1988 from Jack McCracken, Lane Drug Company; Letter dated June 22, 1988 from Leonard Topar, Lake Center Drugs; Letter dated June 23, 1988 from Marvin Berlin; Letter dated June 24, 1988 from Samuel Herman; Letter dated June 17, 1988 from Morris Prostack; Letter dated June 21, 1988 from Roman Franklin; Letter dated June 19, 1988 from Harry Lebovic; Letter dated June 24, 1988 from Richard Hoffmann; Certificate dated February 1987 from State of Michigan, Department of Public Health, Office of Substance Abuse Services showing that Philip Franklin has met requirements for the Apprentice Counselor Credential; Letter dated June 20, 1988 from Thomas O'Connor, Redford Township Youth Services Coordinator; Letter dated May 24, 1988 from Philip Franklin; Letter dated May 24, 1988 from Morris Prostack; Letter dated May 23, 1988 from Harry Lebovic; Letter dated May 18, 1988 from Richard Hoffmann; Verification of Licensure in the state of Michigan dated February 10, 1988; Final Order granting reinstatement from the state of Michigan; Opinion from the State of Michigan Administrative Law Services Office; Letter dated July 23, 1987 from Charles A. Smith, Jr., U.S. Probation Officer.

FINDINGS OF FACT

- (1) From the evidence presented, the State Board of Pharmacy finds that Philip Franklin was convicted of a felony on or about August 23, 1982 by the Honorable Ralph B. Guy, Jr., Federal Judge of the Eastern District Court of Michigan, to wit: unlawful possession of 1000 Desoxyn, a Schedule II Controlled Substance, with intent to distribute.

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- (2) From the evidence presented, the State Board of Pharmacy finds that Philip Franklin is guilty of dishonesty and unprofessional conduct in the practice of pharmacy, to wit: Philip Franklin did sell, without having received a prescription, 1000 tablets of Desoxyn-15mg, 3006 tablets of Tylenol with Codeine #4, 500 tablets of Talwin, and 700 tablets of Pyribenzamine-50mg. Each of these drugs may be sold only upon the prescription of a practitioner.

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 (1) of the Findings Of Fact constitutes being guilty of a felony.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraph (1) of the Findings Of Fact constitutes dishonesty and unprofessional conduct in the practice of pharmacy.
- (3) 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 dishonesty and unprofessional conduct in the practice of pharmacy.
- (4) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraphs (1) and (2) of the Findings Of Fact constitutes failure to meet the qualifications of Division (B) of Section 4729.09 of the Ohio Revised Code which requires that every reciprocity candidate be "of good moral character and habit".

ORDER

Pursuant to Sections 4729.09 and 4729.16 of the Ohio Revised Code, the State Board of Pharmacy hereby denies the application for registration as a pharmacist by reciprocity of Philip Franklin. Further, the Board stipulates that Philip Franklin may apply for registration in Ohio once his Michigan license has been returned to him without limitations.

THIS ORDER WAS APPROVED BY A VOTE OF THE STATE BOARD OF PHARMACY.

MOTION CARRIED.

SO ORDERED.