



OHIO STATE BOARD OF PHARMACY

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ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-940804-006)

In The Matter Of:

GREGORY THOMAS JACOBS, R.Ph.

100 Riverside Place, No. 504

Riverside Plaza

Covington, Kentucky 41011

(R.Ph. No. 03-1-18965)

INTRODUCTION

THE MATTER OF GREGORY THOMAS JACOBS CAME TO HEARING ON SEPTEMBER 19, 1995, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: PAUL F. LAMPING, R.Ph. (presiding); JOHN L. HANNA, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; JOSEPH J. MASLAK, R.Ph.; SUZANNE L. NEUBER, R.Ph.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

GREGORY T. JACOBS WAS REPRESENTED BY JACK C. RUBENSTEIN AND LOUIS RUBENSTEIN AND THE STATE OF OHIO WAS REPRESENTED BY LAWRENCE D. PRATT, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Mike Cluxton, Ohio State Board of Pharmacy
- (2) Cheryl Rooks, Ohio State Board of Pharmacy

Respondent's Witnesses:

- (1) Dr. Fred Karafa, Medical Director, Shepherd Hill Hospital
- (2) Nick Kallis, President, Pharmacists Rehabilitation Organization, Inc.
- (3) Alicia Aumentado, Advocate, Pharmacists Rehabilitation Organization, Inc.
- (4) Charles Norman, AA Sponsor
- (5) Rick Kryc, Advocate, Pharmacists Rehabilitation Organization, Inc.
- (6) Gregory Thomas Jacobs, Respondent

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Summary Suspension Order/Notice of Opportunity letter dated August 4, 1994.
- (2) Exhibit 1A--Addendum Notice dated September 2, 1994.
- (3) Exhibit 1B--Hearing Request letter dated August 17, 1994.
- (4) Exhibit 1C--Two-page Hearing Schedule letter dated August 29, 1994.
- (5) Exhibit 1D--Addendum Notice dated January 19, 1995.
- (6) Exhibit 1E--Continuance Request letter dated February 28, 1995.
- (7) Exhibit 1F--Hearing Schedule letter dated March 1, 1995.
- (8) Exhibit 1G--Renewal Application for Pharmacist License, No. 03-1-18965, for a licenseto practice pharmacy in Ohio from September 15, 1994, to September 15, 1995, of Gregory Thomas Jacobs dated June 30, 1994; with two attachments as follows: handwritten letter from Gregory T. Jacobs dated June 30, 1994, and copy of letter from Ralph E. Bouvette dated June 14, 1994.
- (9) Exhibit 1H--Pharmacist File Front Sheet of Gregory Thomas Jacobs showing original date of registration as July 29, 1991.
- (10) Exhibit 2--Prescription No. 4400126.
- (11) Exhibit 3--Handwritten Statement of Mark Goddard, M.D. regarding Prescription No. 4400126, signed and notarized on July 28, 1994.
- (12) Exhibit 4--Prescription No. 4400026.
- (13) Exhibit 5--Handwritten Statement of Jeffery Blau, M.D. regarding Prescription No. 4400026, signed and notarized on July 13, 1994.
- (14) Exhibit 6--Prescription No. 4400040.
- (15) Exhibit 7--Handwritten Statement of Jeffery Blau, M.D. regarding Prescription No. 4400040, signed and notarized on July 13, 1994.
- (16) Exhibit 8--Prescription No. 4400054.
- (17) Exhibit 9--Handwritten Statement of Jeffery Blau, M.D. regarding Prescription No. 4400054, signed and notarized on July 13, 1994.
- (18) Exhibit 10--Prescription No. 4400077.
- (19) Exhibit 11--Handwritten Statement of Jeffery Blau, M.D. regarding Prescription No. 4400077, signed and notarized on July 13, 1994.
- (20) Exhibit 12--Prescription No. 4400080.
- (21) Exhibit 13--Handwritten Statement of Allan Seales, M.D. regarding Prescription No. 4400080, signed and notarized on July 25, 1994.
- (22) Exhibit 14--Prescription No. 4400150.
- (23) Exhibit 15--Handwritten Statement of Angelo J. Colosimo, M.D. , regarding Prescription No. 4400150, signed and notarized on July 14, 1994.
- (24) Exhibit 16--Drug Audit Accountability Sheet of K-Mart, Cold Spring, Kentucky, for Tenuate 75mg dated August 16, 1994.
- (25) Exhibit 17--Drug Audit Accountability Sheet of K-Mart, Cold Spring, Kentucky, for Didrex 50mg dated August 16, 1994.
- (26) Exhibit 18--Drug Audit Accountability Sheet of K-Mart, Cold Spring, Kentucky, for Xanax 1mg dated August 16, 1994.
- (27) Exhibit 19--Drug Audit Accountability Sheet of K-Mart, Cold Spring, Kentucky, for Xanax 2mg dated August 16, 1994.
- (28) Exhibit 20--Drug Audit Accountability Sheet of K-Mart, Cold Spring, Kentucky, for Vicodin ES dated August 16, 1994.

- (29) Exhibit 21--Drug Audit Accountability Sheet of K-Mart, Cold Spring, Kentucky, for Adipex-P dated August 16, 1994.
- (30) Exhibit 22--Drug Audit Accountability Sheet of K-Mart, Cold Spring, Kentucky, for Meprobamate 400mg dated August 16, 1994.
- (31) Exhibit 23--Drug Audit Accountability Sheet of K-Mart, Cold Spring, Kentucky, for ASA/Codeine 30mg dated August 16, 1994.
- (32) Exhibit 24--Drug Audit Accountability Sheet of K-Mart, Cold Spring, Kentucky, for ASA/Codeine 60mg dated August 16, 1994.
- (33) Exhibit 25--Drug Audit Accountability Sheet of K-Mart, Cold Spring, Kentucky, for Chlordiazepoxide 5mg dated August 16, 1994.
- (34) Exhibit 26--Drug Audit Accountability Sheet of K-Mart, Cold Spring, Kentucky, for Chlordiazepoxide 10mg dated August 16, 1994.
- (35) Exhibit 27--Prescription No. 4400045.
- (36) Exhibit 28--Handwritten Statement of Mark Goddard, M.D. regarding Prescription No. 4400045, signed and notarized on July 28, 1994.
- (37) Exhibit 29--Certification Act of Congress, Case No. 94-CR-00262, dated January 5, 1995; Judgment on Guilty Plea in the Campbell Circuit Court, Division No. One, Case No. 94-CR-262, of Gregory T. Jacobs dated December 7, 1994; Commonwealth's Offer on a Plea of Guilty in the Campbell Circuit Court, Case No. 94-CR-262, of Gregory T. Jacobs dated December 7, 1994; and Motion to Enter Guilty Plea in the Campbell Circuit Court, Case No. 94-CR-262, of Gregory T. Jacobs dated December 7, 1994.
- (38) Exhibit 30--Letter from C. Houston Ebert dated January 27, 1995, with attached two-page Judgment and Sentence on Plea of Guilty in the Campbell Circuit Court, Division No. One, Case No. 94-CR-262, of Gregory T. Jacobs dated January 19, 1995.
- (39) Exhibit 31--Copy of four-page History and Physical Psychiatric Evaluation of Gregory T. Jacobs by Michael McNeer, M.D. dated September 13, 1994.

Respondent's Exhibits:

- (1) Exhibit A--Copies of the following: Client Reporting Sheet/Client Monitoring Sheet of Client Case No. 90, dated from October 8, 1994, to December 31, 1994; Client Reporting Sheet/Client Monitoring Sheet of Client Case No. 90, dated from January 1, 1995, to March 31, 1995; Client Reporting Sheet/Client Monitoring Sheet of Client Case No. 90, dated from April 1, 1995, to June 30, 1995; Client Reporting Sheet/Client Monitoring Sheet of Client Case No. 90, dated from July 2, through September 18; thirty-one urine drug screen reports dated as follows: November 15, 1994; November 18, 1994; November 28, 1994; December 14, 1994; December 20, 1994; January 4, 1995; January 6, 1995; January 25, 1995; February 2, 1995; February 10, 1995; two dated February 21, 1995; March 1, 1995; March 2, 1995; March 17, 1995; March 24, 1995; April 7, 1995; April 11, 1995; April 20, 1995; April 26, 1995; May 4, 1995; May 9, 1995; May 12, 1995; May 23, 1995; May 26, 1995; June 6, 1995; June 15, 1995; June 17, 1995; June 28, 1995; July 5, 1995. July 12, 1995; and twelve chain of custody requests dated November 29, 1994; January 10, 1995; July 11, 1995; July 22, 1995; July 29, 1995; August 2, 1995; August 10, 1995; August 18, 1995; August 23, 1995; August 29, 1995; September 15, 1995; and September 18, 1995.
- (2) Exhibit A1--Copies of ten urine drug screen reports dated as follows: July 5, 1995; July 12, 1995; July 14, 1995; July 27, 1995; August 4, 1995; August 8,

- 1995; August 15, 1995; August 24, 1995; August 28, 1995; and September 6, 1995.
- (3) Exhibit B--Letter from S. Abrahamsen, Jr. dated September 13, 1995; copy of two-page letter from Barbara M. Wofford and Denise M. Perone dated September 11, 1995; letter from Ellen Yass-Reed dated September 7, 1995; letter from Rev. John W. Cahill dated September 8, 1995; letter from Vincent C. Dimaggio dated March 3, 1995; letter from Michael W. Brown dated September 8, 1995; business card and letter from John W. Hatfield dated September 14, 1995; letter from Robert C. Grischy dated September 6, 1995; letter from William J. Morris dated September 11, 1995; letter from Theodore M. Hunter dated September 13, 1995; letter from Phillip Price dated September 12, 1995; letter from Mark W. Rudemiller dated September 8, 1995; letter from Keith M. Wire dated September 12, 1995; letter from Bradley S. Runyan dated September 7, 1995; letter from David Baker, not dated; letter from Richard Sorrell dated September 7, 1995; letter from Larry D. Shaffer, not dated; copy of letter from Alicia Aumentado dated January 5, 1995; copy of letter from George Perdue dated December 3, 1994; letter from Alicia Aumentado and Earl Siegel dated February 27, 1995; letter from Rick Kryc dated November 31, 1994; letter from Nick A. Kallis dated November 30, 1994; two-page Pharmacists Rehabilitation Organization, Inc. Recovering Pharmacist's Contract of Gregory Thomas Jacobs dated October 17, 1994; letter from Brian Fingerson dated September 9, 1995; copy of letter from C. Houston Ebert dated August 29, 1995; copy of Motion for Continuance before the Indiana State Board of Pharmacy, Cause No. 94 IBP 015, of Gregory Jacobs dated July 12, 1995; Order before the Indiana Board of Pharmacy, Cause No. 94 IBP 015, of Gregory Jacobs dated August 11, 1995; letter from Robert G. Miller dated September 7, 1995; two-page letter from Joseph W. Roe, not dated; letter from Ballard Borich, not dated; copy of letter from Mark J. Goddard dated September 21, 1993; copy of letter from Howard and Lori Jacobs dated November 13, 1994; copy of customer compliment memo, Store No. 3902, Reference No. 904196/MRO, regarding Greg Jacobs dated February 10, 1994; copy of customer compliment memo, Store No. 3902, Reference No. 906637/MRO, regarding Greg Jacobs dated February 15, 1994; copy of customer compliment memo, Store No. 3902, Reference No. 954415/MRO, regarding the Pharmacy Dept. dated April 28, 1994; K-Mart Outstanding Customer Care Chairman's Award of Greg Jacobs dated March 11, 1994; K-Mart Outstanding Customer Care Chairman's Award of Greg Jacobs dated May 21, 1993; K-Mart Outstanding Customer Care Chairman's Award of Greg Jacobs dated July 23, 1993; International Pharmacists Anonymous Membership Form; two-page copy of list of continuing education courses dated from June 1993, through September, 1995; copy of Certificate of Completion of Melissa Bradley dated January 19, 1995; and handwritten notes of Greg Jacobs dated from June 12, 1994, through September, 1995.
- (4) Exhibit C--Thirty-seven pages of meeting attendance verification sheets of Greg Jacobs dated from August 19, 1994, through September 18, 1994 (sic 1995).

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 Gregory Thomas Jacobs was originally licensed to practice pharmacy in the state of Ohio on July 29, 1991, and his license was summarily suspended on August 4, 1994, in accordance with Section 3719.121(B) of the Ohio Revised Code.
- (2) Gregory Thomas Jacobs did, on or about April 21, 1994, intentionally make and/or knowingly possess a false or forged prescription, to wit: prescription number 4400126 was written by a practitioner, for Gregory Thomas Jacobs as the patient, for 40 units of Valium 5mg having 1 refill. Gregory Thomas Jacobs altered the prescription to read 40 units of Valium 10mg having 4 refills. Further, the computer-generated label reads that 100 units of Valium 10mg were dispensed. Such conduct is in violation of Section 2925.23 of the Ohio Revised Code.
- (3) Gregory Thomas Jacobs did, on or about the following dates, intentionally make a false or forged prescription, to wit: Gregory Thomas Jacobs created the following false or forged prescriptions:

<u>Rx No.</u>	<u>Date</u>	<u>Drug</u>	<u>Quantity</u>	<u>Refills</u>
4400026	02/20/94	Xanax 1 mg	100	1
4400040	02/25/94	Xanax 1 mg	120	1
4400054	03/08/94	Xanax 1 mg	120	1
4400077	03/22/94	Xanax 1 mg	100	1
4400080	03/25/94	Tylenol #4	120	1
4400150	05/10/94	Valium 10mg	100	0

Such conduct is in violation of Section 2925.23 of the Ohio Revised Code.

- (4) Gregory Thomas Jacobs did, from February 7, 1994, through June 5, 1994, with the purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of K-Mart, beyond the express or implied consent of the owner, to wit: while practicing pharmacy as the Responsible Pharmacist, Gregory Thomas Jacobs stole the following drugs from K-Mart and transferred them from the pharmacy without prescriptions from a practitioner:

<u>Drug</u>	<u>Shortage</u>	<u>Percent of Shortage</u>
Diethylpropion 75mg	700	70
Didrex 50mg	100	100
Alprazolam 1 mg	2,708	47.5
Alprazolam 2mg	100	100
Hydrocodone 7.5mg	2,156	49
Phentermine 3.75mg	230	46
Meprobamate 400mg	100	100
ASA/Codeine 30mg	200	100
ASA/Codeine 60mg	100	100
Chlordiazepoxide 5mg	200	100
Chlordiazepoxide 10mg	300	100

Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

- (5) Gregory Thomas Jacobs did, on or about March 2, 1994, intentionally make and/or knowingly possess a false or forged prescription, to wit: Gregory Thomas Jacobs created prescription number 4400045, for Gregory Thomas

Jacobs as the patient, for 100 units of Valium 10mg. Such conduct is in violation of Section 2925.23 of the Ohio Revised Code.

- (6) Gregory Thomas Jacobs did, on or about December 7, 1994, in the Campbell Circuit Court, Division No. One, Commonwealth of Kentucky, Case No. 94-CR-262, plead guilty to the offense of False Statements Regarding Drugs, in violation of KRS 218A.140(b) of the Kentucky Revised Statutes, the equivalent of Section 2925.23 of the Ohio Revised Code, a felony of the fourth degree.

CONCLUSIONS OF LAW

- (1) 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 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 (2) through (6) of the Findings of Fact constitutes being guilty of a gross immorality as provided in Division (A)(1) 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 (6) 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.
- (4) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2) through (6) of the Findings of Fact constitute being addicted to or abusing drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy as provided in Division (A)(3) of Section 4729.16 of the Ohio Revised Code.
- (5) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2), (3), (5), and (6) of the Findings of Fact constitute being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of Chapter 2925. 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 Gregory Thomas Jacobs.

Pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy hereby suspends the pharmacist identification card, No. 03-1-18965, held by Gregory Thomas Jacobs 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, Gregory Thomas Jacobs 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.

Further, twelve months after the date of the mailing this Order, the Board will consider any petition filed by Gregory Thomas Jacobs for a hearing, pursuant to

Revised Code Chapter 119., upon the question of the reinstatement of his license to practice pharmacy in Ohio. The Board will consider the reinstatement of the license only if the following conditions have been met:

- (A) Gregory Thomas Jacobs must enter into a new contract, within thirty days after 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:
 - (1) random, **observed** urine screens shall be conducted at least every three months. The urinalysis drug screens must include reporting of specific gravity;
 - (2) 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;
 - (3) the intervener shall provide copies of all urine screens to the Board of Pharmacy in a timely fashion; and
 - (4) the program shall immediately report to the Board of Pharmacy any violations of the contract.
- (B) Gregory Thomas Jacobs must provide, at the time of petitioning the Board for reinstatement, written documentation from his 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.