



OHIO STATE BOARD OF PHARMACY

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ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-941117-025)

In The Matter Of:

SAMUEL F. TALARICO, R.Ph.

118 North Lima Road

Poland, Ohio 44514

(R.Ph. No. 03-2-19763)

INTRODUCTION

THE MATTER OF SAMUEL F. TALARICO CAME TO HEARING ON MARCH 8, 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.; AMONTE B. LITTLEJOHN, R.Ph.; JOSEPH J. MASLAK, R.Ph.; WAYNE C. MILLER, R.Ph.; SUZANNE L. NEUBER, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

SAMUEL F. TALARICO WAS REPRESENTED BY JANICE K. LANIER AND DAVID W. GRAUER, AND THE STATE OF OHIO WAS REPRESENTED BY ROBERT J. McCLAREN, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Detective Raoul Rapneth, O.N.I. Office, Pittsburgh Police Department
- (2) Samuel F. Talarico, Respondent

Respondent's Witnesses:

- (1) Samuel F. Talarico, Respondent

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Summary Suspension Order/Notice of Opportunity letter dated November 17, 1994.
- (2) Exhibit 2--Notice of Appearance and Request for Hearing dated December 6, 1994.
- (3) Exhibit 3--Hearing Schedule letter dated December 6, 1994.

- (4) Exhibit 4--Pharmacist File Front Sheet of Samuel F. Talarico showing original date of registration as March 9, 1993; and Renewal Application for Pharmacist License, No. 03-2-19763, for a license to practice pharmacy in Ohio from September 15, 1994, to September 15, 1995, of Samuel F. Talarico dated September 8, 1994.
- (5) Exhibit 5--Allegheny County Court of Common Pleas, Criminal Division, Commonwealth of Pennsylvania, Criminal Action No. CC 9307204, of Samuel Talarico, not dated.
- (6) Exhibit 6--Certified Journal Entry in the Allegheny County Court of Common Pleas, Criminal Case No. 9307204, of Samuel Talarico dated June 25, 1993.
- (7) Exhibit 7--Four-page facsimile as follows: cover sheet to Ohio State Board of Pharmacy dated October 28, 1994; and three-page Investigation Request/Report regarding Samuel Talarico dated December 28, 1993.
- (8) Exhibit 8--One 4oz amber bottle containing a slight trace of liquid, labeled only with an Allegheny County Department of Laboratories evidence sticker, No. 9318591-3C, dated April 7, 1993.
- (9) Exhibit 9--One brown bag containing three plastic bags with contents as follows: first bag containing 8 units of Xanax 2mg; second bag containing 51 units of Diazepam 10mg; and the third bag containing 30 units of Vicodin.
- (10) Exhibit 10--Manila envelope containing four plastic bags; 2 units of Zovirax; 6 units of Titalac; 3 units of Yocon; 1 unit of Methyltestosterone 10mg; and 4 units of an off-white tablet, unidentified.
- (11) Exhibit 11--Four hundred eighty-four dollars in a white envelope as follows: 3 one-hundred-dollar bills; 2 fifty-dollar bills; 2 twenty-dollar bills; 3 ten-dollar bills; 2 five-dollar bills, and 4 one-dollar bills.
- (12) Exhibit 12--Copy of cover page, and pages four, five, and six of the Department of Laboratories Confidential Report of Laboratory Findings, Laboratory Case No. 931859, dated May 4, 1993.

Respondent's Exhibits:

- (1) Exhibit A--Three-page letter from Reverend Walter F. Wichmanowski dated February 6, 1995.
- (2) Exhibit B--Copy of letter from William Ronci dated February 13, 1995.
- (3) Exhibit C--Copy of letter from Gigi Sullivan dated February 8, 1995.
- (4) Exhibit D--Copy of letter from Enie Talarico Giaziani, not dated.
- (5) Exhibit E--Letter from Diane Talarico Gould and Gregory Alan Gould dated February 10, 1995.
- (6) Exhibit F--Copy of letter from Terrence E. Sullivan dated February 8, 1995.
- (7) Exhibit G--Letter from John Killian dated March 1, 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 Samuel F. Talarico was originally licensed to practice pharmacy in the state of Ohio pursuant to reciprocity; and on November 17, 1994, Samuel F. Talarico's license was summarily suspended in accordance with Section 3719.121(C) of the Ohio Revised Code.

- (2) Samuel F. Talarico did, on or about November 15, 1993, plead guilty in the Court of Common Pleas, County of Allegheny, Commonwealth of Pennsylvania, to three felony drug abuse offenses which are essentially the same as Section 2925.03 of the Ohio Revised Code.
- (3) Samuel F. Talarico did, on or about March 20, 1993, knowingly sell a controlled substance in an amount 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: Samuel F. Talarico sold one bottle of Hydrocodone Bitartrate (Hycodan Syrup) without a prescription and without a legitimate medical purpose. Such conduct is in violation of Section 13(a)(14) of the Pennsylvania Controlled Substance, Drug, Device and Cosmetic Act, 35 P.S. 780-113(a)(14), which if committed in Ohio would be in violation of Section 2925.03(A)(1) of the Ohio Revised Code.
- (4) Samuel F. Talarico did, on or about March 20, 1993, knowingly sell a controlled substance in an amount 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: Samuel F. Talarico sold eight tablets of Alprazolam (Xanax) without a prescription and without a legitimate medical purpose. Such conduct is in violation of Section 13(a)(14) of the Pennsylvania Controlled Substance, Drug, Device and Cosmetic Act, 35 P.S. 780-113(a)(14), which if committed in Ohio would be in violation of Section 2925.03(A)(1) of the Ohio Revised Code.
- (5) Samuel F. Talarico did, on or about March 20, 1993, knowingly sell a controlled substance in an amount less than bulk when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Samuel F. Talarico sold thirty tablets of Hydrocodone Bitartrate/APAP (Vicodin) without a prescription and without a legitimate medical purpose. Such conduct is in violation of Section 13(a)(14) of the Pennsylvania Controlled Substance, Drug, Device and Cosmetic Act, 35 P.S. 780-113(a)(14), which if committed in Ohio would be in violation of Section 2925.03(A)(1) of the Ohio Revised Code.
- (6) Samuel F. Talarico did, on or about March 20, 1993, knowingly sell a controlled substance in an amount less than bulk when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Samuel F. Talarico sold fifty-one tablets of Diazepam (Valium) without a prescription and without a legitimate medical purpose. Such conduct is in violation of Section 13(a)(14) of the Pennsylvania Controlled Substance, Drug, Device and Cosmetic Act, 35 P.S. 780-113(a)(14), which if committed in Ohio would be in violation of Section 2925.03(A)(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 (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.

- (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 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 November 17, 1994.

Pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy takes the following actions in the matter of Samuel F. Talarico:

- (A) On the basis of the Findings of Fact and paragraph (1) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes the pharmacist identification card, No. 03-2-19763, held by Samuel F. Talarico effective as of the date of the mailing of this Order.
- (B) On the basis of the Findings of Fact and paragraph (2) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes the pharmacist identification card, No. 03-2-19763, held by Samuel F. Talarico effective as of the date of the mailing of this Order.
- (C) On the basis of the Findings of Fact and paragraph (3) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes the pharmacist identification card, No. 03-2-19763, held by Samuel F. Talarico effective as of the date of the mailing of this Order.

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.