



OHIO STATE BOARD OF PHARMACY

77 South High Street, Room 1702; Columbus, OH 43215-6126

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TEL: 614/466-4143

E-MAIL: exec@bop.state.oh.us

FAX: 614/752-4836

TTY/TDD: Use the Ohio Relay Service: 1-800/750-0750

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ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-960322-050)

In The Matter Of:

HUBERT BURRUS PLEASANT, JR., R.Ph.

1104 Moran

Toledo, Ohio 43607

(R.Ph. No. 03-3-05243)

INTRODUCTION

THE MATTER OF HUBERT BURRUS PLEASANT, JR. CAME TO HEARING ON JANUARY 30, 1997, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: SUZANNE L. NEUBER, R.Ph. (presiding); DIANE C. ADELMAN, R.Ph.; ROBERT B. CAVENDISH, R.Ph.; JOHN L. HANNA, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; JOSEPH J. MASLAK, R.Ph.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

HUBERT BURRUS PLEASANT, JR. WAS NOT PRESENT, NOR WAS HE REPRESENTED BY COUNSEL, AND THE STATE OF OHIO WAS REPRESENTED BY MARY L. HOLLERN, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Franklin Z. Wickham, R.Ph.; Ohio State Board of Pharmacy
- (2) Mark Keeley, R.Ph.; Ohio State Board of Pharmacy
- (3) Dale Fritz; Ohio State Board of Pharmacy

Respondent's Witnesses:

- (1) None

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Notice of Opportunity for Hearing letter dated March 22, 1996.
- (2) Exhibit 1A--Hearing Request letter dated April 15, 1996.
- (3) Exhibit 1B--Hearing Schedule letter dated April 24, 1996.
- (4) Exhibit 1C--Hearing Schedule letter dated June 26, 1996.

- (5) Exhibit 1D--Pharmacist File Front Sheet of Hubert Burrus Pleasant, Jr. showing original date of registration as August 4, 1952; and Renewal Application for Pharmacist License, No. 03-3-05243, for a license to practice pharmacy in Ohio from September 15, 1996, to September 15, 1997, of Hubert B. Pleasant dated July 29, 1996.
- (6) Exhibit 1E--Telephone message to Mary Hollern from Herbert (sic Hubert) Pleasant dated January 28th at 12:27p.m.
- (7) Exhibit 2--Sealed Record-Copy of Hutton's Pharmacy Exempt Narcotic Log Book dated from January 13, 1990, to June 13, 1990.
- (8) Exhibit 2A--Sealed Record-Copy of Hutton's Pharmacy Exempt Narcotic Log Book dated from June 14, 1990, to December 3, 1990.
- (9) Exhibit 2B--Sealed Record-Copy of Hutton's Pharmacy Exempt Narcotics Log Book dated from December 3, 1990, to May 22, 1991.
- (10) Exhibit 2C--Sealed Record-Copy of Hutton's Pharmacy Exempt Narcotics Log Book dated from May 23, 1991, to October 9, 1991.
- (11) Exhibit 2D--Sealed Record-Copy of Hutton's Pharmacy Exempt Narcotics Log Book dated from October 10, 1991, to April 20, 1992.
- (12) Exhibit 2E--Sealed Record-Hutton's Pharmacy Exempt Narcotics Log Book dated from April 21, 1992, to November 3, 1992.
- (13) Exhibit 2F--Sealed Record-Hutton's Pharmacy Exempt Narcotics Log Book dated from November 4, 1992, to July 6, 1993.
- (14) Exhibit 2G--Sealed Record-Hutton's Pharmacy Exempt Narcotics Log Book dated from July 7, 1993, to March 2, 1994.
- (15) Exhibit 2H--Sealed Record-Hutton's Pharmacy Exempt Narcotics Log Book dated from March 3, 1994, to March 14, 1994.
- (16) Exhibit 3--Sealed Record-Confidential Patient Key for Exempt Narcotic Sales at Hutton's Pharmacy dated January 21, 1997.

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 March 22, 1996, Hubert Burrus Pleasant, Jr. was notified by letter of his right to a hearing, his rights in such hearing, and his right to submit his contentions in writing.
- (2) As demonstrated by return receipt of March 25, 1996, Hubert Burrus Pleasant, Jr. received the letter of March 22, 1996, informing him of the allegations against him, and his rights.
- (3) Hubert Burrus Pleasant, Jr. requested a hearing and a hearing was scheduled in accordance with Chapter 119. of the Ohio Revised Code.
- (4) Records of the Board of Pharmacy indicate that Hubert Burrus Pleasant, Jr. was originally licensed in the state of Ohio on August 4, 1952, pursuant to examination, and is currently licensed to practice pharmacy in the state of Ohio.

- (5) Hubert Burrus Pleasant, Jr. did, on or about the following dates, sell, under the exemptions of Section 3719.15 of the Ohio Revised Code to the same person (on each occasion) preparations included within Section 3719.15, when he knew or by reasonable diligence could have ascertained that the sale provided the recipient with more than one such preparation within a forty-eight consecutive hour period:

<u>Date</u>	<u>Drug</u>	<u>Patient No.</u>
04/05/90	Tussar-2	114
04/06/90	Tussar-2	69
04/06/90	Tussar-2	114
07/16/90	Tussar-2	36
08/27/90	Novahistine	4
09/01/90	Terpin Hydrate with Codeine	11
09/29/90	Tussar-2	31
10/04/90	Novahistine	117
10/23/90	Terpin Hydrate with Codeine	82
10/24/90	Novahistine	53
10/24/90	Terpin Hydrate with Codeine	62
10/31/90	Tussar-2	133
12/03/90	Terpin Hydrate with Codeine	80
12/09/90	Terpin Hydrate with Codeine	45
12/10/90	Terpin Hydrate with Codeine	45
12/10/90	Terpin Hydrate with Codeine	80
01/24/91	Tussar-2	77
01/31/91	Novahistine	4
02/27/91	Tussar-2	133
02/28/91	Tussar-2	133
03/29/91	Tussar-2	79
05/02/91	Tussar-2	106
05/02/91	Tussar-2	133
05/20/91	Tussar-2	133
06/03/91	Tussar-2	106
06/29/91	Terpin Hydrate with Codeine	134
07/31/91	Tussar-2	21
08/01/91	Tussar-2	21
09/25/91	Cheracol	3
11/04/91	Tussar-2	79
11/15/91	Novahistine	109
12/15/91	Terpin Hydrate with Codeine	55
12/31/91	Tussar-2	77
12/31/91	Novahistine	117
02/21/92	Rid-A-Pain	64
04/03/92	Terpin Hydrate with Codeine	44
05/22/92	Cheracol	21
06/09/92	Rid-A-Pain	38
11/13/92	Rid-A-Pain	64
09/02/93	Cheracol	21
09/16/93	generic Novahistine	106
10/11/93	generic Novahistine	5
11/08/93	generic Robitussin	13
11/22/93	generic Novahistine	106
12/27/93	generic Novahistine	77
01/10/94	Cheracol	105

Such conduct is in violation of Section 3719.16 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 (5) of the Findings of Fact constitutes being guilty of 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 paragraph (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 provisions of Chapter 3719. 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 4729.16 of the Ohio Revised Code, the State Board of Pharmacy takes the following actions in the matter of Hubert Burrus Pleasant, Jr.:

- (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 places the identification card of Hubert Burrus Pleasant, Jr. on probation for two years, effective as of the date of the mailing of this Order. The terms of probation are as follows:
 - (1) Pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code, the State Board of pharmacy hereby declares that Hubert Burrus Pleasant, Jr.'s pharmacist identification card is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns.
 - (2) Hubert Burrus Pleasant, Jr. may not serve as a responsible pharmacist.
 - (3) Hubert Burrus Pleasant, Jr. must not violate the drug laws of the state of Ohio, any other state, or the federal government.
 - (4) Hubert Burrus Pleasant, Jr. must abide by the rules of the Ohio State Board of Pharmacy.
 - (5) Hubert Burrus Pleasant, Jr. must comply with the terms of this Order.

The Board may at any time revoke probation for cause, modify the conditions of probation, and reduce or extend the period of probation. At any time during this period of probation, the Board may revoke probation for a violation occurring during the probation period.

- (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 imposes a monetary penalty of one thousand dollars (\$1,000.00) due and owing within thirty 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 South High Street, 17th Floor, Columbus, Ohio 43266-0320.

- (C) Further, the Board suspends the monetary penalty due date until the completion of the probation period. If no violations occur throughout the probation period, the monetary penalty will be stayed.

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

MOTION CARRIED.

SO ORDERED.