



OHIO STATE BOARD OF PHARMACY

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Columbus, Ohio 43266-0320
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Filed by

2-3-92

DATE

SO
INITIALS

ORDER OF THE STATE BOARD OF PHARMACY
(Docket No. D-910531-077)

In The Matter Of:

DAVID LEO SHONK, R.Ph.
133 Ann Court
Lancaster, Ohio 43130
(R.Ph. No. 03-3-07566)

Introduction

THE MATTER OF DAVID LEO SHONK CAME TO HEARING ON SEPTEMBER 25, 1991 BEFORE THE FOLLOWING MEMBERS OF THE BOARD: BETTY J. NICHOL, R.Ph. (presiding); METTA LOU HENDERSON, R.Ph.; PAUL F. LAMPING, R.Ph.; NORMAN D. LEIBOW, R.Ph.; TIMOTHY D. MOORE, R.Ph.; RUTH A. PLANT, R.Ph.; JOSEPH R. SABINO, R.Ph.; AND ROBERT W. VALENTINE, R.Ph.

DAVID LEO SHONK WAS REPRESENTED BY BRIAN D. SHONK, AND THE STATE OF OHIO WAS REPRESENTED BY RONDA ANDERSON, ASSISTANT ATTORNEY GENERAL.

Summary Of Evidence

(A) Testimony

State's Witnesses:

- (1) David Leo Shonk, Respondent
- (2) Scott Duff, Medicaid Fraud

Respondent's Witnesses:

- (1) Father Paul Noble
- (2) Dr. Gordon Snyder, M.D.
- (3) Scott Duff, Medicaid Fraud
- (4) David Leo Shonk, Respondent

(B) Exhibits

State's Exhibits:

- (1) Exhibit A - Notice of Opportunity letter dated May 31, 1991.
- (2) Exhibit B - Hearing Request letter dated June 27, 1991.
- (3) Exhibit C - Hearing Schedule letter dated July 1, 1991.
- (4) Exhibit 1 - Pharmacist File Front Sheet for David Leo Shonk showing original date of licensure as August 28, 1961.

- (5) Exhibit 2 - Renewal Application for Pharmacist License Number 03-3-07566 for a license to practice pharmacy in Ohio from September 15, 1990 to September 15, 1991 of David L. Shonk dated August 9, 1990.
- (6) Exhibit 3 - Copy of two-page certified journal entry in the Court of Common Plea of Franklin County, Ohio, Criminal Division, in the matter of State of Ohio vs. David Shonk, Case No. 88CR-09-3196 B.
- (7) Exhibit 4 - Copy of State of Ohio, Department of Public Welfare, Medical Assistance Program Agreement for David Pharmacy dated November 15, 1975.
- (8) Exhibit 5 - Medicaid Handbook relevant to Pharmacy Providers.

Respondent's Exhibits:

- (1) Exhibit 1 - Notarized letter from Thomas E. Hammer dated September 18, 1991.
- (2) Exhibit 2 - Notarized letter from James D. Jewett, C.P.B.C. dated September 18, 1991.
- (3) Exhibit 3 - Two-page notarized letter from Richard F. Shonk, M.D., Ph.D. dated September 17, 1991.
- (4) Exhibit 4 - Notarized letter from Al Romano dated September 17, 1991.
- (5) Exhibit 5 - Three-page notarized letter from Anne J. Lytle dated September 17, 1991.
- (6) Exhibit 6 - Notarized letter from Darwin Howdysshell dated September 20, 1991.
- (7) Exhibit 7 - Notarized letter from Jeff Brannon dated September 16, 1991.
- (8) Exhibit 8 - Notarized letter from Willard C. Blind, C.P.A. dated September 17, 1991.
- (9) Exhibit 9 - Notarized letter from Wilcie Mull dated September 16, 1991.
- (10) Exhibit 10 - Notarized letter from Carolyn Fisher, R.N. dated September 19, 1991.
- (11) Exhibit 11 - Copy of two-page letter from Brian D. Shonk dated June 27, 1991.

Findings Of Fact

- (1) From the evidence presented, the State Board of Pharmacy finds that records of the Board indicate that David Leo Shonk was originally licensed in the state of Ohio on August 28, 1961, pursuant to examination, and is currently licensed to practice pharmacy in Ohio.
- (2) From the evidence presented, the State Board of Pharmacy finds that David Leo Shonk was, on or about November 14, 1989, convicted in the Common Pleas Court of Franklin County, Ohio of one count of Forgery in violation of Section 2913.31 of the Ohio Revised Code, a felony of the fourth degree.

- (3) From the evidence presented, the State Board of Pharmacy finds that David Leo Shonk did, on or about dates up to and including the date of his plea of guilty to Forgery on October 16, 1989, knowingly make and/or cause to be made false or misleading statements for use in obtaining reimbursement from the Ohio Medical Assistance Program.
- (4) From the evidence presented, the State Board of Pharmacy finds that David Leo Shonk did, on or about dates up to and including the date of his plea of guilty to Forgery on October 16, 1989, with the purpose to defraud, forge writings so that they purported to be genuine when they were actually spurious, to wit: when submitting claims to the Ohio Medical Assistance Program, David Leo Shonk created documents to indicate that he performed dispensing services when he had not in fact done so; David Leo Shonk created documents to indicate that he dispensed drugs in excess of the amount which he actually dispensed; and David Leo Shonk created documents to indicate that his wholesale purchase cost was in excess of which it actually was. Such conduct is in violation of Section 2913.31(A)(2) of the Ohio Revised Code.
- (5) From the evidence presented, the State Board of Pharmacy finds that David Leo Shonk did, between January, 1984 and December, 1987, with purpose to deprive, knowingly obtain control over the property of another by deception, to wit: during this limited time period, David Leo Shonk stole from the Ohio Medical Assistance Program \$18,700.00. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (6) From the evidence presented, the State Board of Pharmacy finds that David Leo Shonk did, on or about August 1, 1989 and August 9, 1990, knowingly make false statements when the statements were made with the purpose to secure the issuance by the Ohio State Board of Pharmacy a license or registration, to wit: David Leo Shonk falsely indicated on his 1991 renewal application for his pharmacist license that he had not been convicted of a felony; and on his 1990 renewal application, David Leo Shonk falsely indicated that felony charges were not pending when in fact he had been indicted and convicted of felony charges in Franklin County Common Pleas Court. Such conduct is in violation of Section 2921.13 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 (2) through (5) of the Findings Of Fact constitute 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 or unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.

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- (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 Chapter 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 4729.16 of the Ohio Revised Code, the State Board of Pharmacy takes the following actions concerning the pharmacist license, No. 03-3-07566, held by David Leo Shonk:

- (A) On the basis of paragraph (1) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby suspends the identification card held by David Leo Shonk from February 1, 1992 to November 21, 1994.
- (B) On the basis of paragraph (2) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby suspends the identification card held by David Leo Shonk from February 1, 1992 to November 21, 1994.
- (C) On the basis of paragraph (3) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby suspends the identification card held by David Leo Shonk from February 1, 1992 to November 21, 1994.
- (D) Further, the Board will suspend the suspension and place the identification card on probation until November 21, 1994 provided that David Leo Shonk:

- (1) takes and successfully completes a Jurisprudence examination offered by the Board prior to February 1, 1992;
- (2) does not violate the drug laws of the state of Ohio, any other state, or the federal government;
- (3) abides by the rules of the State Board of Pharmacy; and
- (4) complies with the terms of this Order.

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 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 (Aye-6/Nay-1).

MOTION CARRIED.

SO ORDERED.

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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 497 578 947

ORDER MAILED: November 4, 1991

FZW/so

By 
Franklin Z. Wickham, Executive Director

cc: Ronda Anderson, Assistant Attorney General
Brian D. Shonk, Attorney for Respondent; 144 E. Main Street;
P. O. Box 667; Lancaster, Ohio 43130-0667