



# OHIO STATE BOARD OF PHARMACY

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## ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-950602-065)

In The Matter Of:

**KENNETH T. COOK**

1693 B South Blackhawk Way

Aurora, Colorado 80012

(D.O.B. 6/28/36)

### INTRODUCTION

THE MATTER OF KENNETH T. COOK CAME TO HEARING ON MARCH 4, 1997, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: SUZANNE L. NEUBER, R.Ph. (presiding); DIANE C. ADELMAN, R.Ph.; ROBERT B. CAVENDISH, R.Ph.; PAUL F. LAMPING, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; JOSEPH J. MASLAK, R.Ph.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

KENNETH T. COOK WAS REPRESENTED BY TERRY TATARU, AND THE STATE OF OHIO WAS REPRESENTED BY MARY L. HOLLERN, ASSISTANT ATTORNEY GENERAL.

### SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Christopher K. Reed, Ohio State Board of Pharmacy

Respondent's Witnesses:

- (1) Kenneth T. Cook, Respondent
- (2) Mark Cook, Son of Respondent

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Notice of Opportunity letter dated June 2, 1995.
- (2) Exhibit 1A--Copy of Hearing Request letter dated June 21, 1995, and attached copy of *Oath of a Pharmacist*, author unknown.
- (3) Exhibit 1B--Hearing Schedule letter dated September 5, 1995.
- (4) Exhibit 1C--Continuance Request letter dated December 16, 1995.
- (5) Exhibit 1D--Hearing Schedule letter dated December 15, 1995.

- (6) Exhibit 1E--Continuance Request letter dated March 12, 1996.
- (7) Exhibit 1F--Hearing Schedule letter dated March 21, 1996.
- (8) Exhibit 1G--Letter of Representation and Continuance Request letter of Terry Tataru dated September 19, 1996.
- (9) Exhibit 1H--Hearing Schedule letter dated September 24, 1996.
- (10) Exhibit 2--Application for Examination as a Pharmacist of Kenneth T. Cook signed and notarized on May 25, 1995, copy of Employer's Affidavit of Kenneth Thomas Cook signed and notarized on March 17, 1961; and copy of Application for Examination as Pharmacist of Kenneth Thomas Cook dated June, 1962.
- (11) Exhibit 3--Ohio State Board of Pharmacy Journal Entry, No. J-881221-082, of four-page Order of the State Board of Pharmacy in the matter of Kenneth T. Cook effective December 21, 1988.
- (12) Exhibit 4--Three-page Notice of Opportunity letter dated May 16, 1989.
- (13) Exhibit 5--Ohio State Board of Pharmacy Record of the Proceedings for Fiscal Year 1990, Page No. 65, dated September 26, 1989.
- (14) Exhibit 6--Ohio State Board of Pharmacy Journal Entry, No. J-900821-060, of four-page Order of the State Board of Pharmacy in the matter of Kenneth Thomas Cook effective August 21, 1990.
- (15) Exhibit 7--Ohio State Board of Pharmacy Journal Entry, No. J-930813-033, of four-page Order of the State Board of Pharmacy in the matter of Kenneth T. Cook effective August 13, 1993.

Respondent's Exhibits:

- (1) Exhibit A--Copy of three-page Stipulation and Order before the Colorado State Board of Pharmacy, Proceeding No. RG PH DLFJR, in the matter of Kenneth T. Cook dated May 7, 1990.
- (2) Exhibit B--Copy of letter from D. L. Simmons dated July 24, 1990.
- (3) Exhibit C--Employment History of Kenneth T. Cook dated from July 1990, to present.
- (4) Exhibit D--Two-page copy of Application to Expunge Record of Conviction in the Common Pleas Court of Cuyahoga County, Ohio of Kenneth T. Cook filed February 14, 1997; and attached copy of Affidavit of Kenneth T. Cook, not dated.

#### 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 or about June 2, 1995, Kenneth T. Cook submitted an application for examination as a pharmacist; however, Kenneth T. Cook was originally licensed as a registered pharmacist in the state of Ohio on August 20, 1962, but the license was revoked effective December 21, 1988.
- (2) On or about December 21, 1988, the Ohio State Board of Pharmacy found the following to be fact:
  - (a) Kenneth T. Cook was the responsible pharmacist at Jax Drug Store, 3360 Linden Road, Rocky River, Ohio 44116, terminal distributor license number 02-527100, since November 17, 1987, pursuant to Sections 4729.27 and 4729.55 of the Ohio Revised Code.

(b) Kenneth T. Cook was, on or about May 16, 1988, in the Common Pleas Court of Cuyahoga County, convicted of Theft of Drugs in violation of Section 2925.21 of the Ohio Revised Code, a felony of the fourth degree, and Trafficking in Drugs in violation of Section 2925.03(A)(6) of the Ohio Revised Code, a felony of the third degree.

(c) Kenneth T. Cook did, on or about February 2, 1988, while practicing pharmacy at Jax Drug Store, 3360 Linden Road, Rocky River, Ohio 44116, obtain the following dangerous drugs by attempting or committing a theft offense as defined in Section 2913.01 of the Ohio Revised Code:

<u>Drug</u>	<u>Quantity</u>	<u>Schedule</u>
Fastin 30mg	61	IV
Ionamin 30mg	29	IV
Tenuate Dospan 75mg	33	IV
Valium 10mg	152	IV
Tylenol #4 w/Codeine	29	III
Provera 10mg	30	DD

Such conduct is prohibited by Section 2925.21 of the Ohio Revised Code.

(d) Kenneth T. Cook did, between November 17, 1987, and February 2, 1988, knowingly possess a controlled substance, to wit: Valium 10mg, a schedule IV controlled substance, in an amount equal to or exceeding three times the bulk amount as defined in Section 2925.01 of the Ohio Revised Code when his conduct was not in accordance with Chapter 4729. of the Revised Code. Such conduct is prohibited by Section 2925.03(A)(6) of the Ohio Revised Code.

(e) Kenneth T. Cook as the responsible pharmacist did, between November 17, 1987, and February 2, 1988, fail to keep records of all controlled substances received or dispensed by Jax Drug Store, 3360 Linden Road, Rocky River, Ohio 44116, in accordance with 3719.07(G)(2) of the Ohio Revised Code.

The Board concluded that Kenneth T. Cook was guilty of a felony; guilty of gross immorality; guilty of dishonesty and unprofessional conduct in the practice of pharmacy; and guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violations of Chapters 2925., 3719., and 4729. of the Revised Code; and the Board revoked Kenneth T. Cook's identification card, No. 03-3-07755, on December 21, 1988.

- (3) Since the revocation of his license to practice pharmacy in Ohio, Kenneth T. Cook has made application for re-examination on three separate occasions. On or about May 16, 1989, the Board proposed to deny Kenneth T. Cook's first application for re-examination, and the application was later withdrawn. On or about August 21, 1990, Kenneth T. Cook's second application for re-examination was denied; and on August 13, 1993, Kenneth T. Cook's third application for re-examination was denied.

#### CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (2)(b) of the Findings of Fact constitutes having been

convicted of a felony as provided in Paragraph (A) of Rule 4729-5-04 of the Ohio Administrative Code.

- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (2)(b) of the Findings of Fact constitutes having been convicted of violating any state or federal pharmacy or drug law as provided in Paragraph (B) of Rule 4729-5-04 of the Ohio Administrative Code.
- (3) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2)(b) through (2)(e) of the Findings of Fact constitute not being of good moral character and habits as provided in Paragraph (C) of Rule 4729-5-04 of the Ohio Administrative Code.
- (4) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes having been disciplined by the Ohio State Board of Pharmacy pursuant to Section 4729.16 of the Revised Code as provided in Paragraph (E) of Rule 4729-5-04 of the Ohio Administrative Code.

#### ACTION OF THE BOARD

Pursuant to Section 4729.08 of the Ohio Revised Code, and on the basis of the foregoing Findings of Fact and Conclusions of Law, the State Board of Pharmacy hereby denies the issuance of a certificate of registration or an identification card, and therefore denies the Application for Examination as a Pharmacist submitted by Kenneth T. Cook.

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

MOTION CARRIED.

SO ORDERED.