



OHIO STATE BOARD OF PHARMACY

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ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-980312-048)

In The Matter Of:

DANNY F. CHRISTEN, R.Ph.

4305 Fields Ertel Road

Cincinnati, Ohio 45241

(R.Ph. No. 03-3-08956)

INTRODUCTION

THE MATTER OF DANNY F. CHRISTEN CAME TO HEARING ON SEPTEMBER 8, 1998, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: JOSEPH J. MASLAK, R.Ph. (presiding); ANN D. ABELE, R.Ph.; ROBERT B. CAVENDISH, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; SUZANNE L. NEUBER, R.Ph.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

DANNY F. CHRISTEN WAS REPRESENTED BY ANTHONY DELLIGATTI, JR., AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) William McMillen, R.Ph., Ohio State Board of Pharmacy

Respondent's Witnesses:

- (1) Danny F. Christen, R.Ph., SuperX Pharmacy, Respondent
- (2) Woodrow Weinstein, R.Ph., Sharonville Pharmacy

(B) Exhibits

State's Exhibits:

- (1) Exhibit Christen 1--Copy of three-page Notice of Opportunity for Hearing letter of Danny F. Christen dated March 12, 1998.
- (2) Exhibit Christen 1A--Hearing Request letter of Danny F. Christen dated April 7, 1998.

- (3) Exhibit Christen 1B--Copy of Hearing Schedule letter of Danny F. Christen dated April 8, 1998.
- (4) Exhibit Christen 1C--Copy of three-page letter from Anthony Delligatti, Jr. regarding Danny F. Christen dated April 30, 1998.
- (5) Exhibit Christen 1D--Copy of Hearing Schedule letter of Danny F. Christen dated May 4, 1998.
- (6) Exhibit Christen 1E--Copy of Hearing Schedule letter of Danny F. Christen dated May 6, 1998.
- (7) Exhibit Christen 1F--Copy of Pharmacist File Front Sheet of Danny Fred Christen showing original date of registration as March 4, 1968, and copy of Renewal Application for Pharmacist License, No. 03-3-08956, for a license to practice pharmacy in Ohio from September 15, 1997, to September 15, 1998 of Danny F. Christen dated August 5, 1997.
- (8) Exhibit Weinstein 1--Copy of three-page Notice of Opportunity for Hearing letter of Woodrow Weinstein dated March 12, 1998.
- (9) Exhibit Weinstein 1A--Hearing Request letter of Woodrow Weinstein dated March 30, 1998.
- (10) Exhibit Weinstein 1B--Copy of Hearing Schedule letter of Woodrow Weinstein dated March 31, 1998.
- (11) Exhibit Weinstein 1C--Copy of Hearing Schedule letter of Woodrow Weinstein dated June 1, 1998.
- (12) Exhibit Weinstein 1D--Letter from Geoffrey E. Webster dated June 4, 1998.
- (13) Exhibit Weinstein 1E--Copy of Pharmacist File Front Sheet of Woodrow Weinstein showing original date of registration as March 2, 1965; and copy of Renewal Application for Pharmacist License, No. 03-1-08318, for a license to practice pharmacy in Ohio from September 15, 1997, to September 15, 1998, of Woodrow Weinstein dated July 15, 1997.
- (14) Exhibit 2--Copy of Clin-Alert Volume 1996, No. 9 (110-111), dated May 15, 1996.
- (15) Exhibit 3--Certified copy of seven-page Complaint and Jury Demand in the Hamilton County Common Pleas Court, Lynn Jones and Daniel E. Jones vs. Woody Weinstein c/o Sharonville Pharmacy and Sharonville Pharmacy and Super X Pharmacy, Case No. A9400557, dated February 7, 1994.
- (16) Exhibit 4--Copy of three-page Abbreviated Pre-Trial Statement in the Hamilton County Common Pleas Court, Lynn Jones, et al. vs. Woody Weinstein, et al., Case No. A9400557, not dated; and copy of two-page letter from Sherif G. Awadalla, M.D. dated February 17, 1994.
- (17) Exhibit 5--Certified copy of twelve-page transcribed Deposition of Woodrow Weinstein in the Hamilton County Common Pleas Court, Lynn Jones, et al. vs. Woody Weinstein, c/o Sharonville Pharmacy, et al., Case No. A-9400557, dated March 13, 1995.
- (18) Exhibit 6--Copy of seventeen-page transcribed Deposition of Danny F. Christian (sic Christen) in the Hamilton County Common Pleas Court, Lynn Jones, et al. vs. Woody Weinstein, c/o Sharonville Pharmacy, et al., Case No. A-9400557, dated March 13, 1995.
- (19) Exhibit 7--Certified copy of two-page Stipulation of Dismissal with Prejudice in the Hamilton County Common Pleas Court, Lynn Jones, et al. vs. Woody Weinstein, c/o Sharonville Pharmacy, et al., Case No. A9400557, dated May 2, 1995.

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) Records of the Board of Pharmacy indicate that Danny F. Christen was originally licensed in the state of Ohio on March 4, 1968, pursuant to examination, and is currently licensed to practice pharmacy in the state of Ohio.
- (2) Danny F. Christen did, on or about October 30, 1993, aid and abet the sale of a drug that was misbranded, to wit: when Woodrow Weinstein, R.Ph., of Sharonville Pharmacy in Cincinnati, Ohio, sold Testosterone Propionate 100mg/ml to Daniel Jones, he placed the drug in a vial which Danny F. Christen, while practicing pharmacy at SuperX Pharmacy, had labeled as Progesterone. Danny F. Christen had sold the patient's husband an empty vial. The patient, Mrs. Lynn Jones, suffered serious physical and emotional harm, and her eight-week-old fetus died, due in part to Danny F. Christen's conduct. Such conduct, falsely labeling and selling the vial as if it contained a dangerous drug, and then aiding and abetting Woodrow Weinstein to misbrand the drug and sell the misbranded drug, is in violation of Section 3715.52(B) of the Ohio Revised Code.
- (3) Danny F. Christen did, on or about October 30, 1993, aid and abet the sale of a dangerous drug without a prescription, to wit: when a patient's husband came into SuperX Pharmacy, Danny F. Christen sold an empty vial labeled as Progesterone, but directed the patient's husband to go to another pharmacy to have it filled. Sharonville Pharmacy, where Danny F. Christen directed the patient's husband, did not have a prescription, but filled the vial with Testosterone Propionate 100mg/ml. Such conduct, aiding and abetting Woodrow Weinstein in the sale of a dangerous drug without a prescription, is in violation of Section 3715.52(L) (as in effect at the time of the sale) 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) and (3) of the Findings of Fact constitute 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 paragraphs (2) and (3) 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 Sections 3715.52 to 3715.72 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 Danny F. Christen:

- (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 pharmacist identifica-

tion card, No. 03-3-08956, of Danny F. Christen on probation for one year, effective as of the date of the mailing of this Order. The terms of probation are as follows:

- (1) Danny F. Christen must not violate the drug laws of the state of Ohio, any other state, or the federal government.
- (2) Danny F. Christen must abide by the rules of the Ohio State Board of Pharmacy.
- (3) Danny F. Christen 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 two hundred fifty dollars (\$250.00) 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 with the enclosed form to the State Board of Pharmacy, 77 South High Street, 17th Floor, Columbus, Ohio 43266-0320.

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

MOTION CARRIED.

SO ORDERED.