



OHIO STATE BOARD OF PHARMACY

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ORDER OF THE STATE BOARD OF PHARMACY

(Docket Number D-050317-055)

In The Matter Of:

JOHN MILETI, R.Ph.

5940 White Oak

Mentor, Ohio 44060

(R.Ph. No. 03-3-10140)

INTRODUCTION

THE MATTER OF JOHN MILETI CAME FOR HEARING ON DECEMBER 6, 2005, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: SUZANNE R. EASTMAN, R.Ph. (presiding); GREGORY BRAYLOCK, R.Ph.; ROBERT P. GIACALONE, R.Ph.; ELIZABETH I. GREGG, R.Ph.; NATHAN S. LIPSYC, R.Ph.; KEVIN J. MITCHELL, R.Ph.; DOROTHY S. TEATER, PUBLIC MEMBER; AND JAMES E. TURNER, R.Ph.

JOHN MILETI WAS REPRESENTED BY ANTHONY G. PALMIERI, JR. THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

State's Witness:

1. Frank Bodi, Ohio State Board of Pharmacy

Respondent's Witness:

1. John Mileti, R.Ph., Respondent

State's Exhibits:

1. Notice of Opportunity For Hearing letter [03-17-05]
1A-1E. Procedurals
2. Letter from RationalMed (OPERS) to Margaret Ann Eckstein, M.D. [11-30-04]; Patient Profile Report [11-17-03 to 08-27-04]
3. Rx #281133 [03-08-03]; Rx # 283564 [04-02-03]; Rx #300852 [10-11-03]; Rx #319767 [05-14-04]
4. Rite Aid - 501 Water Street Customer History Report [01-01-01 to 12-22-04]
5. Notarized Statement of John B. Mileti [12-28-04]
6. Notarized Statement of Dorothy A. Scaglione [01-04-05]
7. Notarized Statement of Margaret A. Eckstein, M.D. [01-31-05]
8. Rx #283565 [04-02-03]; Rx #319768 [05-14-04]

Respondent's Exhibits:

- A. Letter from Anthony G. Palmieri, Jr. [12-01-05]
- B. Twelve Letters of Support [11-27-05 to 12-01-05]

FINDINGS OF FACT

After having heard the testimony, observed the demeanor of the witnesses, considered the evidence, and weighed the credibility of each, the State Board of Pharmacy finds the following to be fact:

(1) Records of the State Board of Pharmacy indicate that John Mileti was originally licensed by the State of Ohio on July 20, 1972, pursuant to examination, and is currently licensed to practice pharmacy in Ohio.

(2) John Mileti did, on or about the following dates, intentionally create and/or knowingly possess false or forged prescriptions, to wit: John Mileti created the following documents purporting to be prescriptions for Tylenol with Codeine #4, a Schedule III Controlled Substance, and kept them on file at the pharmacy, when they were not authorized by a prescriber nor issued for a legitimate medical purpose.

Date	Drug/#	Rx #
12-30-00	100 Tylenol #4	202996
01-27-01	100 Tylenol #4	202996r
02-26-01	100 Tylenol #4	202996r
04-30-01	100 Tylenol #4	202996r
05-30-01	100 Tylenol #4	202996r
07-30-01	100 Tylenol #4	223278r
09-05-01	100 Tylenol #4	223278r
09-26-01	100 Tylenol #4	223278r
11-05-01	100 Tylenol #4	223278r
12-01-01	100 Tylenol #4	223278r
01-07-02	100 Tylenol #4	223278r
02-04-02	100 Tylenol #4	241821
03-06-02	100 Tylenol #4	241821r
06-02-02	100 Tylenol #4	241821r
07-31-02	100 Tylenol #4	241821r
09-07-02	100 Tylenol #4	263194
10-02-02	100 Tylenol #4	263194r
11-02-02	100 Tylenol #4	263194r
03-08-03	100 Tylenol #4	281133r
04-02-03	100 Tylenol #4	283564
05-30-03	100 Tylenol #4	283564r
06-28-03	100 Tylenol #4	283564r
08-08-03	100 Tylenol #4	283564r
09-03-03	100 Tylenol #4	283564r
10-11-03	100 Tylenol #4	300852
01-19-04	100 Tylenol #4	300852r
03-06-04	100 Tylenol #4	300852r
05-14-04	100 Tylenol #4	319767
09-04-04	100 Tylenol #4	319767r
10-23-04	100 Tylenol #4	319767r

Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.

(3) John Mileti did, on or about the following dates, intentionally create and/or knowingly possess false or forged prescriptions, to wit: John Mileti created the following documents purporting to be prescriptions for Ultram, a dangerous drug, and kept them on file at the pharmacy, when they were not authorized by a prescriber nor issued for a legitimate medical purpose.

Date	Drug/#	Rx #
03-28-01	120 Ultram 50 mg.	211915
10-02-02	120 Ultram 50 mg.	265678
11-27-02	120 Ultram 50 mg.	265678r
12-29-02	120 Ultram 50 mg.	274192
02-10-03	120 Ultram 50 mg.	278573
03-08-03	120 Ultram 50 mg.	278573r
04-02-03	120 Ultram 50 mg.	283565
05-30-03	120 Ultram 50 mg.	283565r
06-28-03	120 Ultram 50 mg.	283565r
08-22-03	120 Ultram 50 mg.	283565r
05-14-04	120 Ultram 50 mg.	319768
07-25-04	120 Ultram 50 mg.	319768r
10-23-04	120 Ultram 50 mg.	319768r
11-27-04	120 Ultram 50 mg.	319768r

Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.

CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraphs (2) and (3) of the Findings of Fact constitute being guilty of gross immorality as provided in Division (A)(1) of Section 4729.16 of the Ohio Revised Code.
- (2) The State Board of Pharmacy concludes that paragraphs (2) and (3) 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) 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 Chapter 2925. of the Revised Code as provided in Division (A)(5) of Section 4729.16 of the Ohio Revised Code.

DECISION OF THE BOARD

Pursuant to Section 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby adjudicates the matter of John Mileti as follows:

- (A) On the basis of the Findings of Fact and the Conclusions of Law set forth above, the State Board of Pharmacy hereby suspends for three months the pharmacist identification card, No. 03-3-10140, held by John Mileti effective as of the date of the mailing of this Order.
 - (1) John Mileti, pursuant to Rule 4729-9-01(F) of the Ohio Administrative Code, may not be employed by or work in a facility licensed by the State Board of Pharmacy to possess or distribute dangerous drugs during such period of suspension.
 - (2) John Mileti, pursuant to Section 4729.16(B) of the Ohio Revised Code, must return his identification card and license (wall certificate) to the office of the State Board of Pharmacy within ten days after receipt of this Order unless

the Board office is already in possession of both. The identification card and wall certificate should be sent by certified mail, return receipt requested.

- (B) On the basis of the Findings of Fact and Conclusions of Law set forth above, the State Board of Pharmacy hereby imposes on John Mileti a monetary penalty of five thousand dollars (\$5,000.00) 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 with the enclosed form to the State Board of Pharmacy, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126.
- (C) On the basis of the Findings of Fact and Conclusions of Law set forth above, the State Board of Pharmacy hereby places John Mileti on probation for five years effective upon reinstatement of his identification card. The terms of probation are as follows:
- (1) John Mileti may not dispense prescriptions for Dorothy Scaglione or for any member of her family.
 - (2) John Mileti must attend, within ninety days from the effective date of this Order, a Reciprocity hearing conducted by the Ohio State Board of Pharmacy.
 - (3) The State Board of Pharmacy hereby declares that John Mileti's pharmacist identification card is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code.
 - (4) John Mileti may not serve as a responsible pharmacist.
 - (5) John Mileti must not violate the drug laws of Ohio, any other state, or the federal government.
 - (6) John Mileti must abide by the rules of the State Board of Pharmacy.
 - (7) John Mileti must comply with the terms of this Order.
 - (8) John Mileti's license is deemed not in good standing until successful completion of the probationary period.
 - (9) Any violation of probation may result in a Board hearing to consider alternative or additional sanctions under Section 4729.16 of the Ohio Revised Code.

John Mileti is hereby advised that 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.

THIS ORDER WAS APPROVED BY A VOTE OF THE STATE BOARD OF PHARMACY (Aye-6/Nay-1/Recuse-1).

MOTION CARRIED.

SO ORDERED.

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 Ohio Revised Code authorizes an appeal from this Order. An order that denied admission to an examination, or denied the issuance or renewal of a license or registration, or revoked or suspended a license, may be appealed to the court of common pleas in the Ohio county of your place of business or in your Ohio county of residence. Any other order may be appealed to the Court of Common Pleas of Franklin County, Ohio.

Such an appeal, setting forth the order appealed from and the grounds of the appeal, must be commenced by filing the original Notice of Appeal with the State Board of Pharmacy and a copy with the appropriate court within fifteen (15) days after the mailing of this Order and in accordance with the requirements of Section 119.12 of the Ohio Revised Code.

BY ORDER OF THE STATE BOARD OF PHARMACY

ORDER MAILED & EFFECTIVE: JANUARY 11, 2006

CERTIFIED MAIL/Return Receipt
7001 0360 0002 4139 4507

WTW/lf

By: _____
William T. Winsley, M.S., R.Ph., Executive Director

cc: Sally Ann Steuk, Assistant Attorney General
Anthony G. Palmieri, Jr., Attorney for Respondent; 700 West St. Clair Avenue, Suite 210;
Cleveland, Ohio 44113-1230