



OHIO STATE BOARD OF PHARMACY

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

-Equal Opportunity Employer and Service Provider-

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

www.pharmacy.ohio.gov

ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-930916-019)

In The Matter Of:

LARRY WILLIAM SCHUH, R.Ph.

135 W. Hollyridge Road
Gatlinburg, Tennessee 37738
(R.Ph. No. 03-3-10379)

INTRODUCTION

THE MATTER OF LARRY WILLIAM SCHUH CAME TO HEARING ON JUNE 28, 1994, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: JOSEPH R. SABINO, R.Ph. (presiding); ROBERT B. CAVENDISH, R.Ph.; PAUL F. LAMPING, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; WAYNE C. MILLER, R.Ph.; TIMOTHY D. MOORE, R.Ph.; SUZANNE L. NEUBER, R.Ph.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

LARRY WILLIAM SCHUH WAS REPRESENTED BY RONALD E. REICHARD, AND THE STATE OF OHIO WAS REPRESENTED BY GREGG THORNTON, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Joseph Holliday, Ohio State Board of Pharmacy

Respondent's Witnesses:

- (1) Larry William Schuh, Respondent

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1 - Summary Suspension Order/Notice of Opportunity letter dated September 16, 1993.
- (2) Exhibit 1A - Request for Hearing dated September 30, 1993, and copy of letter from Ronald E. Reichard dated September 30, 1993.
- (3) Exhibit 1B - Hearing Schedule letter dated October 7, 1993.

- (4) Exhibit 2 - Pharmacist File Front Sheet of Larry William Schuh showing original date of registration as March 6, 1973.
- (5) Exhibit 3 - Renewal Application for Pharmacist License, number 03-3-10379, of Larry William Schuh dated July 2, 1993.
- (6) Exhibit 4 - Copy of handwritten statement of Larry W. Schuh dated April 19, 1993.
- (7) Exhibit 5 - Thirty-two page transcript of Interview of Larry Schuh, R.Ph. with Michael Cluxton and Joseph Holliday, Ohio State Board of Pharmacy, and Mrs. Schuh on August 11, 1993.
- (8) Exhibit 6 - Diet Pill Audit of K-Mart #3033.
- (9) Exhibit 7 - Three-page copy of Fairborn Police Department Offense Report of Larry Schuh dated April 21, 22, 1993.

Respondent's Exhibits:

- (1) Exhibit A - Letter from Michael E. Foley dated October 20.
- (2) Exhibit A-1 - Copy of Ohio State Board of Pharmacy Intra Office Communication from Joe Holliday dated July 19, 1993; and five-page copy of Ohio State Board of Pharmacy Report of Investigation, Case No. 93-1363, in the matter of Larry W. Schuh, R.Ph. dated July 16, 1993.
- (3) Exhibit A-2 - Copy of handwritten statement of Larry W. Schuh dated April 19, 1993.
- (4) Exhibit A-3 - Three-page copy of Fairborn Police Department Offense Report of Larry Schuh dated April 21, 22, 1993; and copy of List of Controlled Substances Lost dated April 30, 1993.
- (5) Exhibit A-4 - Copy of Report of Theft or Loss of Controlled Substances of K-Mart Pharmacy #3033 dated from February, 1991, through April, 1993.
- (6) Exhibit B - Two-page copy of Ohio State Board of Pharmacy Report of Investigation, Case No. 93-1363, in the matter of Larry W. Schuh, R.Ph. dated September 15, 1993.
- (7) Exhibit C - Summons on Indictment in the Court of Common Pleas, Greene County, Ohio, in the matter of Larry Schuh given on October 12, 1993.
- (8) Exhibit D - Indictment in the Court of Common Pleas, Greene County, Ohio, of Larry Schuh dated October 12, 1993.
- (9) Exhibit E - Three-page copy of Judgment in the Court of Common Pleas, Greene County, Ohio of Larry William Schuh dated December 15, 1993.
- (10) Exhibit F - Two-page copy of letter from Jess Preciphs, Ph.D. dated June 24, 1994.
- (11) Exhibit G - Six-page letter from Robert Booher, M.D. dated November 2, 1993, with attached six-page copy of Curriculum Vita of Robert W. Booher, M.D.
- (12) Exhibit H - Letter from Maurice Oakes dated June 21, 1994.
- (13) Exhibit I - Letter from Robert M. Maughon, M.D. dated June 24, 1994.

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 indicate that Larry William Schuh was originally licensed to practice pharmacy in the state of Ohio on March 6, 1973, pursuant to examination and his identification card was summarily suspended on September 16, 1993.
- (2) Larry William Schuh is addicted to or abusing drugs or is impaired physically or mentally to such a degree as to render him unfit to practice pharmacy, to wit: Larry William Schuh has admitted to stealing from his employer while practicing

pharmacy, and using, 2,524 unit doses of controlled substances. Larry William Schuh stated to his employer, K-Mart: "I pledge to rehabilitate myself and cooperation (sic) in any manner necessary."

- (3) Larry William Schuh did, from January 1, 1992, to April 20, 1993, with the purpose to deprive the owner, K-Mart Pharmacy, knowingly obtain or exert control over dangerous drugs beyond the scope of the consent of the owner, to wit: Larry William Schuh stole the following controlled substances:

Adipex P	533 doses
Phentermine HCl	1,691 doses
Fastin	85 doses
Phendimetrazine 35mg	148 doses
Ionamin 30mg	67 doses

Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

- (4) Larry William Schuh did, on or about December 15, 1993, plead guilty to an amended violation of Sections 2923.02 and 2913.02(A)(3) of the Ohio Revised Code, Attempted Theft of Drugs, a misdemeanor of the first degree.

CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (3) the Findings of Fact constitutes 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.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (2) the Findings of Fact constitutes being addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy as provided in Division (A)(3) of Section 4729.16 of the Ohio Revised Code.
- (3) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (4) of the Findings of Fact constitutes having been convicted of a misdemeanor related to, or committed in, the practice of pharmacy as provided in Division (A)(4) of Section 4729.16 of the Ohio Revised Code.

ACTION OF THE BOARD

Pursuant to Section 3719.121 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension Order issued September 16, 1993.

Pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy takes the following actions in the matter of Larry William Schuh:

- (A) On the basis of the Findings of Fact and Conclusions of Law set forth above, the State Board of Pharmacy hereby suspends the pharmacist identification card held by Larry William Schuh indefinitely and such suspension is effective as of November 1, 1994, unless Larry William Schuh appears before the Board on October 27, 1994, at 8:00 a.m. with the following:

- (1) Larry William Schuh must provide evidence that he has entered into a contract with an alcohol and/or drug addiction treatment provider acceptable to the Board, for a period of not less than five years. The contract must provide that:
 - (a) random, **observed** urine screens shall be conducted at least every three months. The urinalysis drug screens must include reporting of specific gravity;
 - (b) regular attendance, a minimum of three times per week, at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting is required during outpatient treatment and/or during aftercare;
 - (c) the intervener/sponsor shall provide copies of all urine screens to the Ohio Board of Pharmacy in a timely fashion; and
 - (d) the program shall immediately report to the Ohio Board of Pharmacy any violations of the contract.
- (2) Larry William Schuh must provide evidence of all monthly urine screens between June 28, 1994, and September 30, 1994.

If Larry William Schuh fails to attend the hearing scheduled for October 27, 1994, at 8:00 a.m. and/or fails to provide the items requested above, his license to practice pharmacy in the state of Ohio will be suspended indefinitely, effective November 1, 1994. During said suspension, pursuant to Rule 4729-9-01(F) of the Ohio Administrative Code, Larry William Schuh may not be employed by or work in a facility licensed by the Ohio Board of Pharmacy to possess or distribute dangerous drugs during such period of suspension.

- (B) Further, if Larry William Schuh provides evidence satisfactory to the Board on October 27, 1994, the Board will suspend the suspension and place his identification card on probation until November 1, 1999. The terms of probation are as follows:
 - (1) Larry William Schuh must abide by the contract from the treatment provider.
 - (2) Larry William Schuh must submit quarterly reports to the Board describing his progress towards recovery and what he has been doing during the previous three months.
 - (3) Larry William Schuh must not violate the drug laws of the state of Ohio, any other state, or the federal government.
 - (4) Larry William Schuh must abide by the rules of the Ohio State Board of Pharmacy.
 - (5) Larry William Schuh 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.

Pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code, the State Board of Pharmacy hereby declares that Larry William Schuh's pharmacist identification card is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns until November 1, 1999.

The Board further stipulates that Larry William Schuh may not serve as a responsible pharmacist until November 1, 1999.

If said suspension takes effect, Division (B) of Section 4729.16 of the Revised Code provides that: "Any individual whose identification card is revoked, suspended, or refused, shall return his identification card and certificate of registration to the offices of the state board of pharmacy within ten days after receipt of the notice 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.

MOTION CARRIED.

SO ORDERED.