



OHIO STATE BOARD OF PHARMACY

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ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-940411-080)

In The Matter Of:

MARTIN C. MANTZ, R.Ph.

25 Powell Drive

Jackson, Ohio 45640

(R.Ph. No. 03-3-11729)

INTRODUCTION

THE MATTER OF MARTIN C. MANTZ CAME ON FOR CONSIDERATION ON MARCH 9, 1995, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: RUTH A. PLANT, R.Ph. (presiding); ROBERT B. CAVENDISH, R.Ph.; JOHN L. HANNA, R.Ph.; PAUL F. LAMPING, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; WAYNE C. MILLER, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

MARTIN C. MANTZ WAS NOT PRESENT, NOR WAS HE REPRESENTED BY COUNSEL, AND THE STATE OF OHIO WAS REPRESENTED BY ROBERT J. McCLAREN, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Franklin Z. Wickham, Ohio State Board of Pharmacy
- (2) Trooper Sherri Wells, Ohio State Highway Patrol
- (3) Joseph Holliday, Ohio State Board of Pharmacy

Respondent's Witnesses:

- (1) None

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Summary Suspension Order/Notice of Opportunity letter dated April 11, 1994.
- (2) Exhibit 1A--Pharmacist File Front Sheet of Martin Christopher Mantz showing original date of registration as August 4, 1976; and Renewal Application for

Pharmacist License, No. 03-3-11729, for a license to practice pharmacy in Ohio from September 15, 1993, to September 15, 1994, of Martin C. Mantz dated August 11, 1993.

- (3) Exhibit 2--Certification of Originals on File with the Jackson County Municipal Court dated March 23, 1994, as follows: copy of Complaint No. 94CRB65 regarding Martin C. Mantz dated February 7, 1994; copy of Complaint No. 94CRB66 regarding Martin C. Mantz dated February 7, 1994; copy of two traffic citations numbered G002085 and G002086 of Martin C. Mantz dated February 7, 1994; and copy of Commitment After Conviction and Sentence, No. 94-TRI-625, of Martin C. Mantz dated February 9, 1994.
- (4) Exhibit 3--Four-page copy of Ohio State Highway Patrol Report of Investigation, Incident No. 94-00861-0940, dated February 7, 1994; copy of State Highway Patrol Property Control Form, Lab No. 94-0709, regarding property seized from Martin C. Mantz on February 7, 1994; two-page copy of State Highway Patrol Crime Laboratory Results and Analysis, Lab No. 94-0709, dated March 11, 1994; copy of State Highway Patrol Property Control Form, Lab No. 94-0672, regarding a urine sample taken from Martin C. Mantz on February 7, 1994; copy of State Highway Patrol Crime Laboratory Results of Analysis, Lab No. 94-0672, dated February 23, 1994; and three-page copy of handwritten statement of Martin C. Mantz dated February 7, 1994.
- (5) Exhibit 4--Copy of SuperX Store No. OH-182 Promissory Note of Martin C. Mantz dated March 25, 1994; and three-page copy of handwritten statement of Martin C. Mantz dated March 25, 1994.
- (6) Exhibit 5--Accountability Statement of SuperX Drugs, Terminal Distributor No. 02-485850, for Ritalin/Methylphenidate 10mg tablets dated April 4, 1994.
- (7) Exhibit 5A--Accountability Statement of SuperX Drugs, Terminal Distributor No. 02-485850, for Ritalin/Methylphenidate 20mg tablets dated April 4, 1994.
- (8) Exhibit 5B--Accountability Statement of SuperX Drugs, Terminal Distributor No. 02-485850, for Ritalin/Methylphenidate SR 20mg tablets dated April 4, 1994.
- (9) Exhibit 5C--Accountability Statement of SuperX Drugs, Terminal Distributor No. 02-485850, for Percocet/Oxycodone 5mg w/APAP 325mg tablets dated April 4, 1994.

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 indicate that Martin C. Mantz was originally licensed to practice pharmacy in the state of Ohio on August 4, 1976. On April 11, 1994, Martin C. Mantz's license was summarily suspended in accordance with Section 3719.121(B) of the Ohio Revised Code.
- (2) On April 11, 1994, Martin C. Mantz was notified by letter of his right to a hearing, his rights in such hearing, and his right to submit his contentions in writing.

- (3) As demonstrated by return receipt of April 15, 1994, Martin C. Mantz received the letter of April 11, 1994, informing him of the allegations against him, and his rights.
- (4) Martin C. Mantz has not responded in any manner to the letter of April 11, 1994, and has not requested a hearing in this matter.
- (5) Martin C. Mantz did, on or about February 7, 1994, operate a motor vehicle within this state while under the influence of alcohol and/or drugs, to wit: Martin C. Mantz was arrested and subsequently convicted in the Municipal Court of Jackson, Ohio, of driving while under the influence of alcohol and/or drugs. Such conduct is in violation of Section 4511.19 of the Ohio Revised Code.
- (6) Martin C. Mantz did, on or about February 7, 1994, knowingly obtain, possess, or use a controlled substance when the conduct was not in accordance with Chapters 4729. and 4731. of the Ohio Revised Code, to wit: Martin C. Mantz possessed Marijuana, a schedule I controlled substance. Such conduct is in violation of Section 2925.11 of the Ohio Revised Code.
- (7) Martin C. Mantz did, on or about February 7, 1994, knowingly use or possess with purpose to use drug paraphernalia, to wit: Martin C. Mantz used and/or possessed with purpose to use a "roach clip" for inhaling marijuana, a schedule I controlled substance. Such conduct is in violation of Section 2925.14 of the Ohio Revised Code.
- (8) Martin C. Mantz did, on or about February 7, 1994, knowingly obtain, possess, or use a controlled substance when the conduct was not in accordance with Chapters 4729. and 4731. of the Ohio Revised Code, to wit: Martin C. Mantz possessed 3 tablets of Ritalin, a schedule II controlled substance, without a prescription and in an unmarked vial. Such conduct is in violation of Section 2925.11 of the Ohio Revised Code.
- (9) Martin C. Mantz did, on or about February 7, 1994, misbrand a drug, to wit: Martin C. Mantz placed and subsequently possessed 3 tablets of Ritalin, a schedule II controlled substance, in a vial which was not labeled in any manner. Such conduct is in violation of Section 3715.52 of the Ohio Revised Code.
- (10) Martin C. Mantz is addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy, to wit: Martin C. Mantz has admitted to being addicted to Marijuana; Martin C. Mantz has admitted to abusing Ritalin; Martin C. Mantz has admitted to selling drugs such as Oxycodone with APAP in exchange for Marijuana; and, Martin C. Mantz has admitted to stealing drugs from his employer(s).
- (11) Martin C. Mantz did, on dates unknown, knowingly sell controlled substances when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Martin C. Mantz has sold Percocet and/or other controlled substances in exchange for Marijuana. Such conduct is in violation of Section 2925.03 of the Ohio Revised Code.

- (12) Martin C. Mantz did, from April 5, 1993, through March 23, 1994, with the purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of another, beyond the express or implied consent of the owner, SuperX Drugs, to wit: Martin C. Mantz stole the following controlled substances:

<u>Drug</u>	<u>Quantity</u>
Ritalin 10mg and Methylphenidate 10mg	580
Ritalin 20mg and Methylphenidate 20mg	1093
Ritalin 20mg SR and Methylphenidate 20mg SR	116
Percocet and Oxycodone 5mg w/APAP 325mg	942

Such conduct is in violation of Section 2913.02 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 (8) through (12) 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.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (5) through (12) of the Findings of Fact constitute 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 paragraphs (5) and (6) of the Findings of Fact constitute being 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.
- (4) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (6) through (9), (11), and (12) 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., 3719., or 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 3719.121 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension Order issued April 11, 1994.

Pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy takes the following actions in the matter of Martin C. Mantz:

- (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 revokes the pharmacist identification card, No. 03-3-11729, held by Martin C. Mantz effective as of the date of the mailing of this Order.

- (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 revokes the pharmacist identification card, No. 03-3-11729, held by Martin C. Mantz effective as of the date of the mailing of this Order.
- (C) On the basis of the Findings of Fact and paragraph (3) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes the pharmacist identification card, No. 03-3-11729, held by Martin C. Mantz effective as of the date of the mailing of this Order.
- (D) On the basis of the Findings of Fact and paragraph (4) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes the pharmacist identification card, No. 03-3-11729, held by Martin C. Mantz effective as of the date of the mailing of this Order.

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.