



OHIO STATE BOARD OF PHARMACY

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

-Equal Opportunity Employer and Service Provider-

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REVISED ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-990225-033)

In The Matter Of:

JAMES F. LIEBETRAU, R.Ph.

3529 Locust Lane

Cincinnati, Ohio 45238

(R.Ph. No. 03-3-12943)

INTRODUCTION

THE MATTER OF JAMES F. LIEBETRAU CAME TO HEARING ON AUGUST 2, 1999, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: ROBERT B. CAVENDISH, R.Ph. (presiding); ANN D. ABELE, R.Ph.; DIANE C. ADELMAN, R.Ph.; SUZANNE R. EASTMAN, R.Ph.; ROBERT P. GIACALONE, R.Ph.; LAWRENCE J. KOST, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; SUZANNE L. NEUBER, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

JAMES F. LIEBETRAU WAS REPRESENTED BY HARRY B. PLOTNICK, AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

(1) None

Respondent's Witnesses:

- (1) James F. Liebetrau, Respondent
- (2) David W. Baker, R.Ph., Pharmacists Rehabilitation Organization, Inc.
- (3) Charles Broussard, R.Ph., Pharmacists Rehabilitation Organization, Inc.
- (4) Christopher Good, R.Ph., Pharmacists Rehabilitation Organization, Inc.

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Copy of six-page Order of the State Board of Pharmacy, Docket No. D-980714-003, dated February 11, 1999.

- (2) Exhibit 1A--Copy of the six-page Order of the State Board of Pharmacy, Docket No. D-931216-031, dated June 30, 1994.
- (3) Exhibit 1B--Copy of Hearing Schedule letter dated February 25, 1999.
- (4) Exhibit 1C--Hearing Request letter dated February 22, 1999.
- (5) Exhibit 1D--Copy of Pharmacist File Front Sheet of James Frederick Liebetrau showing original date of registration as August 8, 1979.

Respondent's Exhibits:

- (1) Exhibit A--Copies of six urine drug screen reports of James F. Liebetrau dated February 9, 1999; March 2, 1999; April 2, 1999; May 4, 1999; May 18, 1999; and July 1, 1999.
- (2) Exhibit B--Copy of letter from James F. Liebetrau dated May 24, 1999.
- (3) Exhibit C--Copy of Record of AA Meeting Attendance sheet dated from December 22, 1998, through December 27, 1998; and copies of six pages of Record of Meeting Attendance sheets dated from December 30, 1998, through July 11, 1999.
- (4) Exhibit D--Copies of the following: Pharmacists Rehabilitation Organization, Inc. Client Reporting Sheet dated April 12, 1999; PRO Inc. Client Monitoring Sheet dated from December 28, 1998, through March 29, 1999; Pharmacists Rehabilitation Organization, Inc. Client Reporting Sheet dated July 11, 1999; and PRO Inc. Client Monitoring Sheet dated from April 5, 1999, through July 5, 1999.
- (5) Exhibit E--Twenty-nine pages of copies of certificates of continuing education of James Liebetrau numbered and dated as follows: 342-000-98-026-H01 dated February 19, 1999; 424-000-98-012-H01 dated February 24, 1999; 424-000-99-003-H01 dated February 24, 1999; 424-000-99-001-H04 dated February 25, 1999; 424-000-98-015-H02 dated March 1, 1999; 342-000-96-010-H03 dated March 8, 1999; 084-000-098-007-L04 dated March 8, 1999; 084-000-098-012-L04 dated March 10, 1999; 342-000-98-033-H01 dated March 11, 1999; 084-000-098-009-L01 dated March 17, 1999; 084-000-098-008-L04 dated March 19, 1999; 084-000-098-006-L01 dated March 22, 1999; 084-000-098-002-L01 dated March 24, 1999; 084-000-098-010-L04 dated March 25, 1999; 084-000-098-001-L01 dated March 26, 1999; 356-000-98-002-H-01 dated April 1, 1999; 022-000-98-185-H04 dated April 29, 1999; 356-000-97-012-H-01 dated April 1, 1999; 356-000-98-018-H-01 dated April 1, 1999; 356-000-98-006-H-01 dated April 1, 1999; 356-000-98-021-H-01 dated April 1, 1999; 356-000-97-021-H-01 dated April 1, 1999; 356-000-98-008-H-01 dated April 1, 1999; 342-429-96-095-H04 dated April 8, 1999; 022-000-98-180-H04 dated April 29, 1999; 022-000-98-202-H04 dated April 29, 1999; 036-300-99-01-H03 dated May 15, 1999; 036-106-99-004-L01 and 036-106-99-005-L03-J dated May 16, 1999; 342-000-99-002-H04 dated May 25, 1999; 342-000-99-001-H04 dated May 27, 1999; 202-000-99-074-H04 dated June 10, 1999; 057-999-96-088-H01 dated June 11, 1999; 022-000-98-201-H04 dated June 2, 1999; 781-000-98-012-H01 dated June 14, 1999; and 430-000-98-012-H01 dated June 15, 1999.
- (6) Exhibit F--Copy of Position Description for File Clerk dated January 10, 1994, and three-page detailed description of the duties for File Clerk, GS-305-3, PD# 07175.
- (7) Exhibit G--Copy of three-page Pharmacist's Recovery Contract of James F. Liebetrau dated May 1, 1998.
- (8) Exhibit H--Copy of U.S. Postal Service Express Mail Customer Copy Receipt No. EJ359286496US, addressed to Bender and Schlesinger, Inc.
- (9) Exhibit I--Copy of two Record of Meeting Attendance sheets dated from June 13, 1999, through August 1, 1999, of James F. Liebetrau.
- (10) Exhibit J--Copy of urine drug screen report of James F. Liebetrau dated July 15, 1999.

- (11) Exhibit K--Copy of letter from Francis W. Hartigan dated July 26, 1999.
- (12) Exhibit L--Copy of letter from Alan Beye dated July 30, 1999.

FINDING 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) James F. Liebetrau has complied with the terms set forth in the Order of the State Board of Pharmacy, Docket No. D-980714-003, dated February 11, 1999.

ACTION OF THE BOARD

The State Board of Pharmacy hereby approves the reinstatement of the pharmacist identification card of James F. Liebetrau to practice pharmacy in the state of Ohio and places him on probation for five years from the date his identification card is issued, with the following conditions:

- (A) James F. Liebetrau must enter into a contract, after the effective date of this Order, with an Ohio Department of Alcohol and Drug Addiction Services (ODADAS) treatment provider acceptable to the Board for a period of not less than five years and submit a copy of the signed contract to the Board office with the renewal application. The contract must provide that:
 - (1) Random, **observed** urine drug screens shall be conducted at least every three months.
 - (a) The urine sample must be given within twelve hours of notification. The urine screen must include testing for creatinine or specific gravity of the sample as the dilutional standard.
 - (b) Alcohol must be added to the standard urine drug screen. ~~Testing for alcohol must be conducted within forty-eight hours from the time the sample is given.~~ A breathalyzer may be used to test for alcohol, but the test must be conducted by an appropriately certified individual within twelve hours of notification.
 - (c) Results of all urine screens must be negative. Any positive results, including those which may have resulted from ingestion of food, but excluding false positives which resulted from medication legitimately prescribed, indicates a violation of the contract and probation.
 - (2) The intervener/sponsor shall provide copies of all urine screen reports to the Ohio Board of Pharmacy in a timely fashion.
 - (3) Regular attendance, a minimum of three times per week, at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting is required.
 - (4) The program shall immediately report to the Ohio Board of Pharmacy any violations of the contract and/or lack of cooperation.

- (B) James F. Liebetrau must submit quarterly progress reports to the Board; due January 10; April 10; July 10; and October 10; of each year of probation, that include:
- (1) the written report and documentation provided by the treatment program pursuant to the contract, and
 - (2) a written description of his progress towards recovery and what he has been doing during the previous three months.
- (C) Other terms of probation are as follows:
- (1) The State Board of Pharmacy hereby declares that James F. Liebetrau'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.
 - (2) James F. Liebetrau may not serve as a responsible pharmacist.
 - (3) James F. Liebetrau may not destroy, assist in, or witness the destruction of controlled substances.
 - (4) James F. Liebetrau must abide by the contract from the treatment provider and any violation must be reported to the Board immediately.
 - (5) James F. Liebetrau must not violate the drug laws of the state of Ohio, any other state, or the federal government.
 - (6) James F. Liebetrau must abide by the rules of the Ohio State Board of Pharmacy.
 - (7) James F. Liebetrau must comply with the terms of this Order.

James F. Liebetrau 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.

MOTION CARRIED.

SO ORDERED.



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ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-980714-003)

In The Matter Of:

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3529 Locust Lane

Cincinnati, Ohio 45238

(R.Ph. No. 03-3-12943)

INTRODUCTION

THE MATTER OF JAMES F. LIEBETRAU CAME TO HEARING ON JANUARY 4, 1999, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: JOSEPH J. MASLAK, R.Ph. (presiding); ANN D. ABELE, R.Ph.; DIANE C. ADELMAN, R.Ph.; ROBERT B. CAVENDISH, R.Ph.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

JAMES F. LIEBETRAU WAS REPRESENTED BY HARRY B. PLOTNICK, AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A)

Testimony

State's Witnesses:

(1) None

Respondent's Witnesses:

- (1) James F. Liebetrau, Respondent
- (2) Christopher Good, R.Ph., Pharmacists Rehabilitation Organization, Inc.
- (3) David Baker, R.Ph., Pharmacists Rehabilitation Organization, Inc.
- (4) Wayne Miller, R.Ph., Pharmacists Rehabilitation Organization, Inc.

(B)
Exhibits

State's Exhibits:

- (1) Exhibit 1--Copy of six-page Order of the Ohio State Board of Pharmacy, Docket No. D-931216-031, in the matter of James F. Liebetrau dated June 30, 1994.
- (2) Exhibit 1A--Hearing Request letter dated July 10, 1998.
- (3) Exhibit 1B--Copy of Hearing Schedule letter dated July 14, 1998.
- (4) Exhibit 1C--Copy of Continuance Request letter dated July 28, 1998.
- (5) Exhibit 1D--Copy of Hearing Schedule letter dated July 28, 1998.
- (6) Exhibit 1E--Letter from Harry B. Plotnick dated December 23, 1998.

Respondent's Exhibits:

- (1) Exhibit A--White three-ring binder with two-page Contents and eleven sections containing copies of the following: Section 1--Six-page Order of the State Board of Pharmacy, Docket No. D-931216-031, in the matter of James F. Liebetrau dated June 30, 1994. Section 2--Three-page Pharmacists Rehabilitation Organization Inc. Pharmacist's Recovery Contract of James F. Liebetrau dated May 1, 1998; Pharmacists Rehabilitation Organization, Inc. Client Reporting Sheet of Client Case No. 124 for the period from June 1, 1998, to September 26, 1998; Pharmacists Rehabilitation Organization, Inc. Client Monitoring Sheet of Client Case No. 124 dated for the weeks of July 4, 1998, through September 26, 1998. Section 3--Seven urine drug screen reports of James Liebetrau dated June 3, 1998; July 2, 1998; July 28, 1998; September 9, 1998; October 1, 1998; November 11, 1998; and November 27, 1998. Section 4--Letter from Francis W. Hartigan dated November 13, 1998. Section 5--Twenty-eight Record of AA Attendance Sheets of James Liebetrau dated from November 26, 1997, through December 20, 1998. Section 6--Thirteen Weekly Record of Meeting Attendance Sheets of James Liebetrau dated from May 13, 1998, through December 17, 1998. Section 7--Four-page letter from Pedro Adams dated October 19, 1998; two-page letter from Robert A. Contadino dated April 1, 1994; two letters from Nancy Schmidtgoessling dated February 27, 1998, and July 28, 1998.

Section 9--Seventy-one pages consisting of one hundred forty-three certificates of continuing education of James Liebetrau numbered and dated as follows: 679702-92-003 dated July 25, 1994; 679702-87-02 dated July 11, 1991; 679702-91-010 dated November 30, 1991; 679702-93-011 dated September 3, 1994; 679702-93-008 dated September 3, 1994; 679702-92-014 dated July 26, 1994; 679702-91-004 dated September 3, 1994; 679702-93-009 dated September 3, 1994; 679702-91-018 dated December 31, 1994; 679702-94-018 dated December 17, 1995; 679702-94-012 dated December 17, 1995; 679702-93-010 dated December 18, 1995; 6790702-93-024 dated December 18, 1995; 702-000-95-030-H03 dated November 6, 1996; 702-000-96-012-H01 dated November 6, 1996; 129-000-97-001-H01, 129-000-97-002-H01, 129-000-97-003-H01, 129-000-97-004-H01, 129-000-97-005-H01, 129-000-97-006-H01, 129-000-97-007-H01, 129-000-97-008-H01, 129-000-97-009-H01, and 129-000-97-010-H01 dated November 5, 1997; 679702-94-017 dated November 6, 1996; 129-000-97-011-H01 and 129-000-97-012-H01

dated January 5, 1998; 702-999-97-011-H01 dated April 8, 1998; 036-106-98-001 and 036-106-98-002-J dated May 11, 1998; 036-300-98-01-J dated May 15, 1998; 237-999-98-006-L01 dated October 23, 1998; 237-999-98-007-L01 dated October 21, 1998; 036-309-97-001J dated August 13, 1998; 036-309-97-003J dated August 13, 1998; 306-000-96-004-H04 dated October 12, 1998; 421-000-97-003-H01 dated October 1, 1998; 316-000-96-024-H01 dated October 23, 1998; 799-000-95-002-H04 dated September 13, 1998; 316-799-98-02 (*sic*) dated October 23, 1998; 316-999-96-044-H01 dated October 23, 1998; 316-000-98-002-H04 dated October 23, 1998; 316-000-95-071-H04 dated October 23, 1998; 316-000-98-038-H01 dated October 23, 1998; 316-999-98-016-H01 dated October 26, 1998; 316-000-98-039-H01 dated October 23, 1998; 316-000-98-001-H04 dated October 26, 1998; 202-000-98-080-H01 dated October 28, 1998; 202-000-95-026-H01 dated October 28, 1998; 202-000-98-079-H04 dated October 28, 1998; 360-999-95-005-H01 dated October 29, 1998; 360-999-96-008-H01 dated October 29, 1998; 022-000-96-003-H01 dated September 29, 1998; 022-000-097-120-H04 dated September 29, 1998; 022-000-98-036-H04 dated September 29, 1998; 022-000-98-111-H04 dated October 12, 1998; 163-999-97-076-H01 dated October 19, 1998; 022-000-97-175-H04 dated September 29, 1998; 316-777-97-039-H01 dated October 16, 1998; 777-316-96-008-H04 dated October 16, 1998; 316-777-97-040-H01 dated October 29, 1998; 073-000-96-043-H01 dated October 5, 1998; 358-000-98-001-H04 dated September 24, 1998; 358-000-96-012-H01 dated September 24, 1998; 430-000-98-045-H01 dated October 6, 1998; 430-000-97-046-H01 dated October 6, 1998; 430-000-97-047-H01 dated October 6, 1998; 430-000-97-045-H01 dated October 6, 1998; 073-000-96-011-H01 dated October 15, 1998; 073-000-96-056-H01 dated October 19, 1998; 073-999-97-022-H01 dated October 19, 1998; 424-000-98-005-H01 dated October 19, 1998; 424-000-97-009-H01 dated October 21, 1998; 327-000-97-001-H04 dated October 27, 1998; 327-000-96-002-H04 dated October 27, 1998; 327-000-96-001-H04 dated October 27, 1998; 342-000-96-079-H03 dated September 24, 1998; 348-000-96-002-H04 dated September 29, 1998; 348-000-96-001-H04 dated September 29, 1998; 342-000-97-048-H04 dated October 2, 1998; 342-429-97-044-H04 dated October 2, 1998; 680-302-95-081 dated October 3, 1998; 342-000-97-012-H04 dated October 5, 1998; 342-000-97-011-H04 dated October 5, 1998; 342-429-97-016-H04 dated October 5, 1998; 342-429-97-017-H04 dated October 5, 1998; 342-000-97-042-H01 dated October 9, 1998; 342-000-97-018-H04 dated October 9, 1998; 342-000-97-039-H01 dated October 9, 1998; 342-000-97-027-H04 dated October 19, 1998; 342-000-97-022-H01 dated October 19, 1998; 342-000-97-046-H01 dated October 19, 1998; 342-000-98-004-H01 dated October 19, 1998; 342-000-98-003-H01 dated October 19, 1998; 342-000-98-027-H01 dated October 19, 1998; 342-000-97-004-H01 dated October 19, 1998; 342-000-98-022-H01 dated October 21, 1998; 342-000-98-023-H01 dated October 26, 1998; 424-000-98-006-H01 dated November 27, 1998; 424-000-98-014-H01 dated November 25, 1998; 424-000-98-005-H01 dated November 25, 1998; 424-999-98-001-H01 dated November 25, 1998; 424-000-98-004-H01 dated November 24, 1998; 424-000-97-011-H04 dated November 24, 1998; 424-999-97-005-H01 dated November 23, 1998; 424-000-97-009-H01 dated November 23, 1998; 680-038-95-028 dated November 21, 1998; 424-999-97-010-H01 dated November 20, 1998; 038-799-96-005-H01 dated November 20, 1998; 424-999-97-006-H01 dated November 19, 1998; 424-999-98-002-H01 dated November 16, 1998; 424-000-98-013-H01 dated November 16, 1998; 424-000-98-008-H03 dated November 16, 1998; 424-000-98-003-H03 dated

November 16, 1998; 021-999-97-017-H01 dated November 23, 1998; 021-999-98-027-H01 dated November 22, 1998; 342-000-97-014-H01 dated November 23, 1998; 342-000-97-052-H04 dated November 11, 1998; 342-000-98-030-H01 dated November 6, 1998; 815-999-97-008-H02 dated November 30, 1998; 815-999-97-007-H02 dated November 30, 1998; 815-999-97-005-H02 dated November 30, 1998; 815-999-98-002-H02 dated November 30, 1998; 815-999-97-017-H02 dated November 30, 1998; 815-999-98-002-H02 dated November 30, 1998; 815-999-98-021-H02 dated November 30, 1998; 815-999-98-002-H02 dated November 30, 1998; 815-999-96-004-H02 dated November 30, 1998; 350-999-95-009-H01 dated November 11, 1998; 350-999-95-008-H01 dated November 11, 1998; 350-999-98-016-H03 dated November 11, 1998; 350-999-95-007-H01 dated November 11, 1998; 360-999-98-001-H01 dated November 10, 1998; 359-000-96-007-H01 dated November 11, 1998; 359-000-97-007-H01 dated December 3, 1998; 013-999-98-017-H04 dated November 3, 1998; 360-999-96-001-H01 dated November 17, 1998; 799-000-97-005-H04 dated November 19, 1998; 073-999-97-082-H01 dated November 6, 1998; 026-999-97-271-H04 dated November 5, 1998; 421-000-95-010-H01 dated October 30, 1998; and 811-000-97-001-H01 dated October 30, 1998; and four certificates of continuing education of James Liebetrau, with no C.E. Program Number, titled and dated as follows: "The Postmenopausal Health Curriculum" dated September 23, 1998; "Clinical Care Options for HIV: Fungal Infections: Diagnosis and Management in Patients with HIV Disease" dated November 30, 1998; "Clinical Care Options for HIV: Hematologic Manifestations of HIV Disease" dated November 30, 1998; and "Clinical Care Options for HIV: HIV Disease in Women" dated November 30, 1998. Section 10--List of four continuing pharmaceutical education programs completed, but no certificate received for programs numbered 799-000-96-002-404, 350-999-98-015-403, 057-999-98-025-401, and 073-000-97-130-401. Section 11--Letter from Nick A. Kallis dated December 10, 1998; letter from David W. Baker dated December 8, 1998; letter from Charles J. Broussard dated November 27, 1998; letter from Christopher Good dated December 15, 1998; letter from Linda M. Toth and Molly E. Fitzgerald dated November 24, 1998; letter from Garrett D. Kenney dated October 29, 1998; letter from Larry G. Maden dated November 20, 1998; letter from Steve M. Friday dated December 3, 1998; letter from William D. Miles dated December 2, 1998; letter from William A. Romer dated December 1, 1998; letter from Greg Jacobs dated November 25, 1998; letter from Rodney E. Stone dated December 3, 1998; letter from Henry B. Eyman dated December 15, 1998; and letter from Joyce Wessels dated January 4, 1999.

- (2) Attachments of Exhibit A-Copies of three urine drug screen reports of James Liebetrau dated December 14, 1998; December 22, 1998; and December 28, 1998; copy of Record of AA Meeting Attendance of James Liebetrau dated from December 22, 1998, through December 27, 1998; copy of certificate of continuing pharmacy education, Program No. 350-999-98-015-H03, of James F. Liebetrau dated December 14, 1998; and copy of letter from Mary Anne Fitzgerald dated March 27, 1998.

FINDING 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) James F. Liebetrau has not complied with the Order of the Board, Docket No. D-931216-031, dated June 30, 1994.

ACTION OF THE BOARD

Pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy hereby denies the reinstatement petition of James F. Liebetrau. Pursuant to Rule 4729-9-01(F) of the Ohio Administrative Code, James F. Liebetrau may not be employed by or work in a facility licensed by the Board of Pharmacy to possess or distribute dangerous drugs during such period of suspension.

- (A) August 1, 1999, or thereafter, the Board will consider any petition filed by James F. Liebetrau for a hearing, pursuant to Revised Code Chapter 119., upon the question of the reinstatement of his license to practice pharmacy in Ohio.
- (B) The Board will consider the reinstatement of the license only if the following conditions have been met:
 - (1) James F. Liebetrau must maintain his current contract with the Pharmacists Rehabilitation Organization, Inc.
 - (2) Random, **observed** urine drug screens shall be conducted at least every three months.
 - (a) The urine sample must be given within twelve hours of notification. The urine drug screen must include testing for creatinine or specific gravity of the sample as the dilutional standard.
 - (b) Alcohol must be added to the standard urine drug screen. Testing for alcohol must be conducted within forty-eight hours from the time the sample is given. A breathalyzer may be used to test for alcohol, but the test must be conducted by an appropriately certified individual within twelve hours of notification.
 - (c) Results of urine screens must be negative. Any positive results, including those which may have resulted from ingestion of food, but excluding false positives which resulted from medication legitimately prescribed, indicates a violation of the contract and probation.
 - (3) The intervener/sponsor shall provide copies of all urine screens to the Ohio Board of Pharmacy in a timely fashion.
 - (4) Regular attendance, a minimum of three times per week, at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting is required.
 - (5) The program shall immediately report to the Ohio Board of Pharmacy any violations of the contract and/or lack of cooperation.

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

MOTION CARRIED.

SO ORDERED.



OHIO STATE BOARD OF PHARMACY

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ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-931216-031)

In The Matter Of:

JAMES F. LIEBETRAU, R.Ph.

3529 Locust Lane
Cincinnati, Ohio 45238

(R.Ph. No. 03-3-12943)

INTRODUCTION

THE MATTER OF JAMES F. LIEBETRAU CAME TO HEARING ON APRIL 13, 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.

JAMES F. LIEBETRAU WAS REPRESENTED BY GREGORY M. NOLAN, AND THE STATE OF OHIO WAS REPRESENTED BY GREGG THORNTON, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

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

Respondent's Witnesses:

- (1) James F. Liebetrau, Respondent

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1 - Summary Suspension Order/Notice of Opportunity letter dated December 27, 1993.

- (2) Exhibit 1A - Hearing Request letter dated January 18, 1994.
- (3) Exhibit 1B - Hearing Schedule letter dated January 25, 1994.
- (4) Exhibit 1C - Pharmacist File Front Sheet of James Frederick Liebetrau showing original date of registration as August 8, 1979; and Renewal Application for Pharmacist License No. 03-3-12943 for a license to practice pharmacy in Ohio from September 15, 1993, to September 15, 1994 of James Frederick Liebetrau dated July 24, 1993.
- (5)
- (6)
- (7)
- (8)
- (9)
- (10)
- (11)
- (12)
- (13)
- (14)
- (15)

Respondent's Exhibits:

- (1) Exhibit A - Copy of Affidavit of Robert C. Hudson signed and notarized on April 11, 1994.
- (2)
- (3)
- (4)
- (5)
- (6) Exhibit F - Copy of letter from Rita Cichowlas dated August 10, 1987; copy of memo and newspaper clipping from Cynthia M. Wenger dated June 4, 1990; copy of letter from Mr. & Mrs. James L. Brown dated November 9, 1990; and copy of letter from Alex Grass and Martin L. Grass dated July 12, 1991.

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 James F. Liebetrau was originally licensed in the state of Ohio on August 8, 1979, pursuant to examination. On December 27, 1993, James F. Liebetrau's license to practice pharmacy in the state of Ohio was summarily suspended.
- (2)
- (3)
- (4)
- (5)

CONCLUSIONS OF LAW

- (1)
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2) through (5) of the Findings of Fact constitute being guilty of dishonesty and unprofessional conduct as provided in Division (A)(2) 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 (5) of the Findings of Fact constitutes being addicted to or abusing 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.
- (4) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (3) and (4) of the Findings of Fact constitute being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of any of the provisions of Sections 3715.52 to 3715.72 or 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 December 27, 1993.

Pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy takes the following actions in the matter of James F. Liebetrau:

- (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 suspends the pharmacist identification card held by James F. Liebetrau, No. 03-3-

12943, indefinitely and such suspension is effective as of the date of the mailing of this Order. Pursuant to Rule 4729-9-01(F) of the Ohio Administrative Code, James F. Liebetrau may not be employed by or work in a facility licensed by the Board of Pharmacy to possess or distribute dangerous drugs during such period of suspension.

- (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 suspends the pharmacist identification card held by James F. Liebetrau, No. 03-3-12943, indefinitely and such suspension is effective as of the date of the mailing of this Order. Pursuant to Rule 4729-9-01(F) of the Ohio Administrative Code, James F. Liebetrau may not be employed by or work in a facility licensed by the Board of Pharmacy to possess or distribute dangerous drugs during such period of suspension.
- (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 suspends the pharmacist identification card held by James F. Liebetrau, No. 03-3-12943, indefinitely and such suspension is effective as of the date of the mailing of this Order. Pursuant to Rule 4729-9-01(F) of the Ohio Administrative Code, James F. Liebetrau may not be employed by or work in a facility licensed by the Board of Pharmacy to possess or distribute dangerous drugs during such period of suspension.
- (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 suspends the pharmacist identification card held by James F. Liebetrau, No. 03-3-12943, indefinitely and such suspension is effective as of the date of the mailing of this Order. Pursuant to Rule 4729-9-01(F) of the Ohio Administrative Code, James F. Liebetrau may not be employed by or work in a facility licensed by the Board of Pharmacy to possess or distribute dangerous drugs during such period of suspension.
- (E) The Board will consider any petition filed by James F. Liebetrau for a hearing after January 1, 1995, pursuant to Revised Code Chapter 119., upon the question of the reinstatement of his license to practice pharmacy in Ohio. The Board will consider the reinstatement of the license only if the following conditions have been met:
 - (1) James F. Liebetrau must enter into a contract with a certified Ohio Department of Alcohol and Drug Addiction Services (ODADAS) treatment program acceptable to the Board for a period of not less than five years and, upon signing, submit a copy of the contract to the Board office. The contract must provide that:
 - (a) random, **observed** urine screens shall be conducted at least every three months. The urinalysis drug screens must include checking for specific gravity and pH;
 - (b) regular attendance, at least three times per week, at Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meetings, and at meetings of a professional support

group, is required during outpatient treatment and/or during aftercare;

- (c) the intervener shall provide copies of all urine screens to the Board of Pharmacy in a timely fashion; and
 - (d) the program shall immediately report to the Board of Pharmacy any violations of the contract.
- (2) James F. Liebetrau must obtain a full psychiatric or psychological evaluation by a licensed psychiatrist or psychologist that includes a recommended treatment plan. James F. Liebetrau must seek counseling and abide by the treatment plan as designed by the professional.
- (3) At the time of petitioning the Board for reinstatement, James F. Liebetrau must provide:
- (a) written documentation from his ODADAS treatment provider regarding compliance with the program pursuant to the contract;
 - (b) results of his full psychiatric or psychological evaluation;
 - (c) documentation of the recommended treatment plan resulting from the psychiatric or psychological evaluation;
 - (d) compliance with the recommended treatment plan; and
 - (e) documentation of continuing counseling.

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.