



OHIO STATE BOARD OF PHARMACY

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Columbus, Ohio 43266-0320
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THE STATE BOARD OF PHARMACY
(Docket No. D-870828-012)

In The Matter Of:

MARK S. HOLLINGER, R.Ph.
2627 Helen Street N.W.
Canton, Ohio 44708

INTRODUCTION

THE MATTER OF MARK S. HOLLINGER CAME TO HEARING ON FEBRUARY 12, 1988 BEFORE THE FOLLOWING MEMBERS OF THE BOARD: NORMAN LEIBOW, R.Ph. (presiding); GERALD CLOUSE, R.Ph.; TIMOTHY MOORE, R.Ph.; JOSEPH SABINO, R.Ph.; AND JEROME WIESENHAHN, R.Ph.

MARK S. HOLLINGER WAS REPRESENTED BY GLENN DURMANN, AND THE STATE OF OHIO WAS REPRESENTED BY CHRISTOPHER COSTANTINI, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Exhibits

State's Exhibits:

- (1) Exhibit A - Notice of Opportunity dated August 28, 1987.
- (2) Exhibit B - Hearing Request Letter received in the Board office September 29, 1987.
- (3) Exhibit C - Hearing Schedule Letter dated September 30, 1987, returned by the U.S. Postal Service as undelivered.
- (4) Exhibit D - Hearing Schedule Letter dated October 15, 1987, returned by the U.S. Postal Service as undelivered.
- (5) Exhibit E - Hearing Schedule Letter dated January 8, 1988, delivered as demonstrated by return receipt dated January 11, 1988.
- (6) Exhibit 1 - Application for renewal of pharmacist license for 1985, 1986.
- (7) Exhibit 3 - Statement of Mark Hollinger dated July 23, 1986.
- (8) Exhibit 4 - Interview between Mark Hollinger and Detective Sizemore, Stow Police Department, dated July 29, 1986.
- (9) Exhibit 5 - Statement of Miranda Rights dated July 29, 1986.
- (10) Exhibit 6 - Report of theft or loss of controlled substances for K-Mart Pharmacy, 4332 Kent Road, Stow, Ohio 44224 dated 05/11/87.
- (11) Exhibit 7 - Court record of Mark Hollinger.

- (12) Exhibit 8 - Copy of exempt narcotics register showing purchase of cough syrup by Mark Hollinger on 08/14/86.
- (13) Exhibit 9 - Statement of Mark Hollinger dated 01/19/87.
- (14) Exhibit 10 - Copy of exempt narcotics register showing purchase of cough syrup by Mark Hollinger on 08/14/86.
- (15) Exhibit 11 - Statement of Mark Hollinger dated 01/19/87.
- (16) Exhibit 12 - Copy of exempt narcotics register showing purchase of cough syrup by Mark Hollinger on 08/17/86.
- (17) Exhibit 13 - Statement of Mark Hollinger dated 01/19/87.
- (18) Exhibit 14 - Copy of exempt narcotics register showing purchase of cough syrup by Mark Hollinger on 08/18/86.
- (19) Exhibit 15 - Statement of Mark Hollinger dated 01/19/87.
- (20) Exhibit 16 - Rx #6176859 in the name of Mark Hollinger.
- (21) Exhibit 17 - Rx #366438 in the name of Mark Hollinger.
- (22) Exhibit 18 - Patient profile in the name of Mark Hollinger.
- (23) Exhibit 19 - Statement of Mark Hollinger dated 01/19/87.
- (24) Exhibit 20 - Statement of Mark Hollinger dated 01/19/87.
- (25) Exhibit 21 - Accountability statement showing 390 shortage of Demerol 50mg.
- (26) Exhibit 22 - Accountability statement showing 170 shortage of Demerol 100mg.
- (27) Exhibit 23 - Accountability statement showing 71 shortage of Dexedrine 15mg.
- (28) Exhibit 24 - Accountability statement showing 97 shortage of Codeine 30mg.
- (29) Exhibit 25 - Accountability statement showing 183 shortage of Dilaudid 2mg.
- (30) Exhibit 27 - Statement of Mark Hollinger dated 01/19/87.
- (31) Exhibit 28 - Rx #036691 in the name of Mark Hollinger.
- (32) Exhibit 29 - Rx #021860 in the name of Roy Deitz.
- (33) Exhibit 30 - Statement of Mark Hollinger dated 01/19/87.
- (34) Exhibit 31 - Rx for Ampicillin 250mg in the name of Roy Deitz.
- (35) Exhibit 33 - Rx for Haldol 4mg in the name of Joseph Dewitt.
- (36) Exhibit 34 - Rx for Pen Vee K 250mg in the name of Verna Campbell.
- (37) Exhibit 35 - Rx #256895 in the name of June Gipson.
- (38) Exhibit 37 - Videotape of R.Ph. Hollinger ingesting drugs.

Respondent's Exhibits:

(None)

(B) Testimony

State's Witnesses:

- (1) Bruce Rich
- (2) William Bloomfield
- (3) Joseph Tocco, R.Ph.; K-Mart District Manager
- (4) Robert Cole; Agent for the Board of Pharmacy
- (5) Mark Hollinger, R.Ph.; Respondent

Respondent's Witnesses:

(None)

FINDINGS OF FACT

- (1) From the evidence presented, the State Board of Pharmacy finds that Mark S. Hollinger did knowingly obtain, possess, and use controlled substances between the dates of June 17, 1986 and July 23, 1986 while practicing pharmacy at K-Mart Pharmacy, 6332 Kent Road, Stow, Ohio, to wit:

| <u>Drug</u> | <u>Quantity</u> |
|-----------------|------------------|
| Tussend | 4 oz. |
| Hycomine | 6 oz. |
| Hycodan | 6 oz. |
| Fiorinal #3 | 35 - 40 capsules |
| Chloral Hydrate | 20 or more |

Such conduct is prohibited by Section 2925.11 of the Ohio Revised Code.

- (2) From the evidence presented, the State Board of Pharmacy finds that Mark S. Hollinger did, on or about August 14, 1986, obtain more than one preparation exempted by the provisions of Ohio Revised Code Section 3719.15 within forty-eight consecutive hours, to wit: four ounces of Elixir of Terpin Hydrate and Codeine was obtained from Sid's, 4685 Fulton Road, Canton, Ohio and on the same day, four ounces of Novahistine Expectorant was obtained from Gray Drug, West Tuscarawas, Canton, Ohio by you. Such conduct is prohibited by Section 3719.16 of the Ohio Revised Code.

- (3) From the evidence presented, the State Board of Pharmacy finds that Mark S. Hollinger did, on or about August 17, 1986 and August 18, 1986, obtain more than one preparation exempted by the provisions of Ohio Revised Code Section 3719.15 within forty-eight consecutive hours, to wit: four ounces of Robitussin AC was obtained from Peoples Drug Store, 3885 Everhard, Canton, Ohio and on the next day, four ounces of Novahistine Expectorant was obtained from Click's dba Youngfellow Drug, 1474 N. Main Street, North Canton, Ohio by you. Such conduct is prohibited by Section 3719.16 of the Ohio Revised Code.

- (4) From the evidence presented, the State Board of Pharmacy finds that Mark S. Hollinger did procure the dispensing of a dangerous drug by deception, as that term is defined in Section 2913.01 of the Revised Code, on more than one occasion while practicing pharmacy at Peoples Drug, 3255 Cleveland Avenue, N.E., Canton, Ohio, to wit: you forged a prescription for 21 Flexeril-10mg by transfer of a prescription from Davies Pharmacy, Canton, Ohio to Peoples Pharmacy, Canton, Ohio on February 3, 1986. Further, that said false prescription was refilled by you on February 25, 1986.

| <u>Rx No.</u> | <u>Date</u> | <u>Drug</u> | <u>Quantity</u> |
|---------------|-------------|---------------|-----------------|
| 366438 | 02/03/86 | Flexeril-10mg | 21 |
| 366438 | 02/25/86 | Flexeril-10mg | 21 |

Such conduct is prohibited by Section 2925.22 of the Ohio Revised Code.

- (5) From the evidence presented, the State Board of Pharmacy finds that Mark S. Hollinger did, on or about February 18, 1986 while practicing pharmacy at Peoples Drug, 3255 Cleveland Avenue N.E., Canton, Ohio, obtain the following controlled substance and dangerous drug by committing a theft offense as defined in Section 2913.01 of the Ohio Revised Code:

| <u>Drug</u> | <u>Quantity</u> |
|--------------|-----------------|
| Demerol-50mg | 20 |

Such conduct is prohibited by Division (A) of Section 2925.21 of the Ohio Revised Code.

- (6) From the evidence presented, the State Board of Pharmacy finds that Mark S. Hollinger did, on or about March 15, 1986 while practicing pharmacy at Peoples Drug, 1343 Dueber Avenue S.W., Canton, Ohio, obtain the following controlled substances and dangerous drugs by committing a theft offense as defined in Section 2913.01 of the Revised Code:

| <u>Drug</u> | <u>Quantity</u> |
|----------------|-----------------|
| Demerol-50mg | 20 |
| Biphedamine 20 | 7 |

Such conduct is prohibited by Division (A) of Section 2925.21 of the Ohio Revised Code.

- (7) From the evidence presented, the State Board of Pharmacy finds that Mark S. Hollinger did, between the dates of March 21, 1986 and April 17, 1986, while practicing pharmacy at Peoples Drug, New Philadelphia, Ohio, obtain the following controlled substances and dangerous drugs by committing a theft offense as defined in Section 2913.01 of the Revised Code:

| <u>Drug</u> | <u>Quantity</u> |
|----------------|-----------------|
| Demerol-50mg | 390 tablets |
| Demerol-100mg | 170 tablets |
| Dexedrine-15mg | 100 capsules |
| Codeine-30mg | 97 tablets |
| Dilaudid-2mg | 183 tablets |
| Placidyl-500mg | 100 capsules |

Such conduct is prohibited by Division (A) of Section 2925.21 of the Ohio Revised Code.

- (8) From the evidence presented, the State Board of Pharmacy finds that Mark S. Hollinger did procure the dispensing of a dangerous drug by deception, as that term is defined in Section 2913.01 of the Revised Code, on more than one occasion while practicing pharmacy at Peoples Drug, New Philadelphia, Ohio, to wit: you did obtain 21 tablets of Flexeril-10mg by transferring a false prescription from Peoples Drug, Canton, Ohio to Peoples Drug, New Philadelphia, Ohio on April 20, 1986.

| <u>Rx No.</u> | <u>Date</u> | <u>Drug</u> | <u>Quantity</u> |
|---------------|-------------|---------------|-----------------|
| 036691 | 04/20/86 | Flexeril-10mg | 21 |

Such conduct is prohibited by Section 2925.22 of the Ohio Revised Code.

- (9) From the evidence presented, the State Board of Pharmacy finds that Mark S. Hollinger did, on or about November 15, 1986, intentionally utter a false prescription, to wit: Prescription No. 021860 was called in by you to a pharmacist employed by Gray Drugs, Mellett Mall Shopping Center, Canton, Ohio for 180ml of Hycodan Syrup.

- (10) From the evidence presented, the State Board of Pharmacy finds that Mark S. Hollinger did procure the dispensing of a dangerous drug by deception, as that term is defined in Section 2913.01 of the Revised Code, on or about November 15, 1986, to wit:

| <u>Rx No.</u> | <u>Date</u> | <u>Drug</u> | <u>Quantity</u> |
|---------------|-------------|------------------|-----------------|
| 0211863 | 11/15/86 | Ampicillin-250mg | 24 |

Such conduct is prohibited by Section 2925.22 of the Ohio Revised Code.

- (11) From the evidence presented, the State Board of Pharmacy finds that Mark S. Hollinger did procure the dispensing of a dangerous drug and controlled substance by deception, as that term is defined in Section 2913.01 of the Revised Code, on or about November 15, 1986, to wit:

| <u>Rx No.</u> | <u>Date</u> | <u>Drug</u> | <u>Quantity</u> |
|---------------|-------------|---------------|-----------------|
| 021860 | 11/15/86 | Hycodan Syrup | 180ml |

Such conduct is prohibited by Section 2925.22 of the Ohio Revised Code.

- (12) From the evidence presented, the State Board of Pharmacy finds that Mark S. Hollinger is addicted to or abusing drugs to such a degree as to render him unfit to practice pharmacy, in that:

- (a) Mark S. Hollinger admitted to Robert L. Cole and Robert Amiet, employees of the Board, that he was addicted to drugs to such a degree that he believed that he was unable to practice pharmacy.
- (b) Mark S. Hollinger admitted to Robert L. Cole, an employee of the Board, that the drugs listed in paragraphs (1), (2), (3), (5), (6), (7), and (11) above were obtained for personal consumption and that he was addicted to drugs.
- (13) From the evidence presented, the State Board of Pharmacy finds that Mark S. Hollinger failed to renew his identification card on the fifteenth day of September, 1985 as required by Section 4729.12 of the Ohio Revised Code, for 1986, when he did not renew until January 6, 1986.
- (14) From the evidence presented, the State Board of Pharmacy finds that Mark S. Hollinger did dispense and sell dangerous drugs at Fazio's Discount Prescription Center, 1602 S. Arlington, Akron, Ohio 44306, while not being a registered pharmacist during the lapsed dates of his pharmacist license; in violation of the provisions of Section 4729.28 of the Ohio Revised Code, to wit:

| <u>Rx No.</u> | <u>Date Dispensed</u> | <u>Drug</u> | <u>Quantity</u> |
|---------------|-----------------------|--------------------|-----------------|
| 256190 | 01/02/86 | Haldol-2mg | 70 |
| 256885 | 01/02/85(?) | Pen Vee K 250mg/cc | 300ml |
| 256895 | 01/02/86 | Synalgos DC | 20 |

CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraphs (1) through (12) of the Findings Of Fact constitutes gross immorality.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraphs (4) through (11) of the Findings Of Fact constitutes dishonesty in the practice of pharmacy.
- (3) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraphs (1) through (3) and (12) of 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.
- (4) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraphs (1) through (14) of the Findings Of Fact constitutes willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of the provisions of Chapters 2925., 3719., and 4729. of the Ohio Revised Code.

ORDER

Pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy takes the following actions concerning the pharmacist license, No. 03-3-13407, held by Mark S. Hollinger:

(A) On the basis of paragraphs (1) through (4) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby suspends the pharmacist identification card held by Mark S. Hollinger indefinitely.

(B) Further, Mark S. Hollinger may petition the Board for reinstatement of his identification card 2 years following the effective date of this Order provided he is under contract with a chemical dependency program, and it is recommended that:

(1) The philosophy and individualized treatment plan of the program is based on the disease concept.

(2) The chemical dependency model of treatment is based on a 12-step program such as Alcoholics Anonymous.

(3) The program provides specialized medical and nursing care during detoxification and appropriate health care professionals during treatment phase.

(4) The evaluation process is an objective, measurable program which uses tools and testing procedures to identify patterns, progression and stages of recovery at appropriate times in the treatment program. The evaluation should also emphasize patient self-assessment.

(5) The program has a network of referral agencies or professionals which meet the needs of the practitioner and significant others in the event that the needs go beyond the program's expertise.

(6) The program is a minimum of a 28-day, in-patient treatment plan with out-patient services available.

(7) The involvement and treatment of family and significant others is provided.

(8) The program (in-patient and/or out-patient) is accredited by the Joint Commission for Accreditation of Hospitals or the American Osteopathic Association.

(9) The cost of the treatment program is covered by most insurance companies and/or the program is willing to help work out realistic payment arrangements with the patient.

(10) Aftercare program is provided either through the treatment center or through the treatment center's agreement with another treatment provider in or near the patient's hometown. Aftercare requirements should include:

- (a) group therapy, support groups, and individual counseling
- (b) periodic blood and/or urine screening
- (c) mandatory attendance at Alcoholics Anonymous, Narcotics Anonymous, or similar 12-step programs at least twice weekly
- (d) "no use" alcohol/drug contract
- (e) mirror-imaging program
- (f) involvement or regular contact with employer or person who assumes responsibility for monitoring
- (g) transition or re-entry interview with employer and/or person monitoring and the recovering practitioner
- (h) minimum length of contract specified (at least two years)
- (i) physicians available for any ongoing medical problems
- (k) availability of half-way house, if needed.

(11) The program will notify the appropriate regulatory board if the health care professional does not successfully complete their treatment program.

Division (B) of Section 4729.16 of the Revised Code provides in pertinent part that: "Any individual whose identification card is ..., suspended, ..., shall return his identification card and certificate of registration to the offices of the state board of pharmacy within ten days after receipt of 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.

It is hereby certified by this Board that the above language is a copy of the Order entered upon its journal in this case.

MARK S. HOLLINGER, R.Ph.
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Order of the Board

Section 119.12 of the Revised Code authorizes an appeal from this Order. Such an appeal may be taken to the court of common pleas in the county in which your place of business is located or to said court of the county in which you reside. If you do not have a place of business in Ohio and are not a resident of Ohio, you may appeal to the Court of Common Pleas in Franklin County, Ohio.

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

BY ORDER OF THE STATE BOARD OF PHARMACY

CERTIFIED MAIL
Return Receipt

ORDER ISSUED: MAY 17, 1988

FZW/sb

By Franklin Z. Wickham
Franklin Z. Wickham, Executive Director

cc: Christopher Costantini, Assistant Attorney General
Glenn Durmann, Attorney For Respondent