

JUNE, 1999 ORDER NULL AND VOID – SEE AMENDED ORDER JULY, 1999

AMENDED ORDER OF THE STATE BOARD OF PHARMACY
(Docket No. D-980618-070)

In The Matter Of:

JONATHAN PAUL BURKET, R.Ph.
21 Imbler Drive
Greenhills, Ohio 45218-1129
(R.Ph. No. 03-3-14171)

INTRODUCTION

THE MATTER OF JONATHAN PAUL BURKET CAME TO HEARING ON MAY 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.; AMONTE B. LITTLEJOHN, R.Ph.; SUZANNE L. NEUBER, R.Ph.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

JONATHAN PAUL BURKET WAS REPRESENTED BY TERRY TATARU, AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Michael Cluxton, Ohio State Board of Pharmacy
- (2) Christopher K. Reed, Ohio State Board of Pharmacy

Respondent's Witnesses:

- (1) Jeffrey Blumling, Director of Finance, Medi-Serv
- (2) Alfonso Trujillo Falla, M.D., Cincinnati, Ohio
- (3) John M. Evans, C.Ph.T., Christ Hospital Pharmacy
- (4) Jonathan Paul Burket, Respondent

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Copy of three-page Notice of Opportunity for Hearing dated June 18, 1998.
- (2) Exhibit 1A--Hearing Request letter dated July 17, 1998.
- (3) Exhibit 1B--Copy of Hearing Schedule letter dated July 20, 1998.
- (4) Exhibit 1C--Continuance Request letter dated December 7, 1998.
- (5) Exhibit 1D--Copy of Hearing Schedule letter dated December 11, 1998.
- (6) Exhibit 1E--Copy of Pharmacist File Front Sheet of Jonathan Paul Burket showing original date of registration as July 31, 1981, and two-page copy of Renewal Application for Phar-

macist License, No. 03-3-14171, for a license to practice pharmacy in Ohio from September 15, 1998, to September 15, 1999, of Jonathan Paul Burket dated August 12, 1998.

(7) Exhibit 2

(8) Exhibit 2A—Certified copy of five-page Commonwealth of Kentucky, Kentucky Board of Pharmacy, in re: Jonathan P. Burket; License No. 9027, entered April 13, 1994.

(9) Exhibit 3

(10) Exhibit 4.

(11) Exhibit 5

(12) Exhibit 6

(13) Exhibit 7

(14) Exhibit 8

(15) Exhibit 9

(16) Exhibit 10

(17) Exhibit 11

Respondent's Exhibits:

(1) Exhibit A--Tabbed section covers containing copies as follows: OTR--Fifty-eight pages of weekly time sheets of Mediserv (Over the Rhine) employees dated from the week ending March 30, 1996, through the week ending September 7, 1996, for the following: Stan Abrams, Jon Burket, Loretta Englemon, Henri (Henrietta) Griffin, Monica McNear, and Joe Newmark. Reading Road--Forty-one pages of weekly time sheets of Mediserv (Reading Road) employees dated from the week ending April 6, 1996, through the week ending September 7, 1996, for the following: Stephanie Brown, Jonathan Burket, John Evans, and Stanley Abrams. Fairmount--Twenty pages of weekly time sheets of Mediserv (Fairmount) employees dated from the week ending April 6, 1996, through August 9, 1996, for the following: Stuart Graff, Monica McNear, and Denise Tolbert. Multiple--Three pages of weekly time sheets of Mediserv employees as follows: Loretta Englemon for the weeks ending April 13, 1996; April 20, 1996; May 25, 1996; and June 1, 1996; and Monica McNear for the weeks ending August 3, 1996, and August 11, 1996. Undesignated--Fifty-three pages of weekly time sheets of Mediserv employees dated from April 6, 1996, through September 7, 1996, of the following: Stanley Abrams, Loretta Englemon, John Evans, Stuart Graff, Henri Griffin, Monica McNear, Joe Newmark, Leonard S. Streicher, and Denise Tolbert.

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 Jonathan Paul Burket was originally licensed in the state of Ohio on July 31, 1981, pursuant to examination, and is currently licensed to practice pharmacy in the state of Ohio.

(2)

CONCLUSIONS OF LAW

(1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (2) of 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)

ACTION OF THE BOARD

Following consideration of documentation submitted to the Board at its meeting on July 12, 1999, the Board approved adopting this Amended Order and to make null and void the Order mailed and effective on June 17, 1999, in the matter of Jonathan Paul Burket upon the effective date of this Amended Order.

Pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy takes the following actions in the matter of Jonathan Paul Burket:

(A) On the basis of the Findings of Fact and Conclusions of Law set forth above, the State Board of Pharmacy hereby suspends indefinitely the pharmacist identification card, No. 03-3-14171, held by Jonathan Paul Burket and such suspension is effective as of the date of the mailing of this Order.

(1) Pursuant to Rule 4729-9-01(F) of the Ohio Administrative Code, Jonathan Paul Burket may not be employed by or work in a facility licensed by the Board of Pharmacy to possess or distribute dangerous drugs while his license is under active suspension.

(2) Division (B) of Section 4729.16 of the Ohio Revised Code provides: "Any individual whose identification card is revoked, suspended, or refused, shall return his identification card and license to the offices of the state board of pharmacy within ten days after receipt of notice of such action." The wall certificate and identification card should be forwarded by certified mail, return receipt requested.

(B) Further, the Board will reinstate Jonathan Paul Burket's license and place Mr. Burket's pharmacist identification card on probation for five years following the receipt of a Notice of Voluntary Dismissal of Mr. Burket's appeal filed on the Board's Order mailed and effective June 17, 1999, time-stamped by the Hamilton County Common Pleas Court, and submission of three negative urine drug screen reports in compliance with the conditions stated in paragraphs (1)(a) through (1)(c) below. Following reinstatement, the terms of probation are as follows:

(1) The Board reserves the right to require Jonathan Paul Burket to submit to **random** urinalysis, at any given time during the period of probation, at Mr. Burket's expense, as follows:

(a) The urine sample must be **observed** and 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)

(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.

(2) Jonathan Paul Burket 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:

(a) A written description of his progress and what he has been doing during the previous three months.

(b) The report must include employment history, any medications being taken, current residential street address, and any problems encountered during the three months immediately preceding each report.

(3) Jonathan Paul Burket 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 AMENDED ORDER WAS APPROVED BY A VOTE OF THE STATE BOARD OF PHARMACY (Aye-7/Nay-0).

MOTION CARRIED.

SO ORDERED.

AMENDED ORDER EFFECTIVE JULY 26, 1999