



OHIO STATE BOARD OF PHARMACY

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ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-010615-079)

In The Matter Of:

PHILIP CHARLES GARBER, R.Ph.

3618 Fawnrun Drive
Cincinnati, Ohio 45241
(R.Ph. No. 03-3-14211)

INTRODUCTION

THE MATTER OF PHILIP CHARLES GARBER CAME FOR HEARING ON FEBRUARY 3, 2004, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: ROBERT P. GIACALONE, R.Ph. (presiding); DIANE C. ADELMAN, R.Ph.; SUZANNE R. EASTMAN, R.Ph.; ELIZABETH I. GREGG, R.Ph.; LAWRENCE J. KOST, R.Ph.; AND JAMES E. TURNER, R.Ph.

PHILIP CHARLES GARBER WAS REPRESENTED BY NEIL F. FREUND AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

State's Witnesses

1. Robert Burdick, R.Ph., Ohio State Board of Pharmacy

Respondent's Witnesses

1. Gloria Garber, R.Ph.

State's Exhibits

1. Copy of Notice of Opportunity For Hearing letter [06-15-01]
1A-1P. Procedurals
2. Information, United States of America v. Philip C. Garber, Case No. CR-3-01-026, U.S. District Court, Southern District of Ohio (Western Division) [03-09-01]
3. Statement of Facts re Philip C. Garber [Not dated]
4. Plea Agreement [03-19-01]
5. Plea on Information [03-19-01]
6. Judgment in a Criminal Case [09-09-03]

Respondent's Exhibits

- A. Initial Pre sentence Investigation Report, United States of America v Philip C. Garber, Case No. CR-3-01-26-01-WHR, U.S. District Court, Southern District of Ohio [04-20-01]
- B. Request to Amend Report from Kevin J. Spiering, Attorney At Law [05-07-01]
- C. Psychological Evaluation of Philip Garber [05-12-01]

- D. Final Pre-Sentence Investigation Report [05-14-01];
- E. Copy of Assets/Debts Report of P. Garber [04-10-01]
- F. Copy of nine Letters of Support [04-05-01 to 04-10-01]
- G. Transcript, United States of America v Philip C. Garber, Case No. CR-3-01-26-01-WHR, U.S. District Court, Southern District of Ohio [07-12-02]
- H. Sentencing [09-09-03]

FINDINGS 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) Records of the State Board of Pharmacy indicate that Philip Charles Garber was originally licensed by the State of Ohio as a pharmacist on July 31, 1981, pursuant to examination, and is currently licensed to practice pharmacy in Ohio. Records further indicate that Philip Charles Garber was the Responsible Pharmacist at Wells Professional Pharmacy, 3951 State Route 725, Bellbrook, Ohio 45305, pursuant to Sections 4729.27 and 4729.55 of the Ohio Revised Code and Rule 4729-5-11 of the Ohio Administrative Code.
- (2) Philip Charles Garber did, on March 19, 2001, plead guilty to three felonies: Count 1, Theft From An Organization Receiving Federal Funds, in violation of 18 U.S.C. §666; Count 2, Engaging in Monetary Transaction in Property Derived from an Unlawful Activity, in violation of 18 U.S.C. §1957; and, Count 3, Tax Evasion, in violation of 26 U.S.C. §7201. United States of America v. Philip C. Garber, Case No. CR-3-01-26, U.S. District Court for the Southern District of Ohio (Western Division). From April 1994 to April 15, 1998, Philip Charles Garber was engaged in a scheme wherein he obtained approximately \$1,212,404.41 in funds belonging to his employer, Kettering Medical Center.

CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes being guilty of a felony and gross immorality as provided in Division (A)(1) of Section 4729.16 of the Ohio Revised Code.
- (2) 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.

DECISION OF THE BOARD

Pursuant to Section 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy adjudicates the matter of Philip Charles Garber as follows:

- (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 permanently the pharmacist identification card, No. 03-3-14211, held by Philip Charles Garber 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 permanently the pharmacist identification card, No. 03-3-14211, held by Philip Charles Garber effective as of the date of the mailing of this Order.

Pursuant to Section 4729.16(B) of the Ohio Revised Code, Philip Charles Garber must return his identification card and license (wall certificate) to the office of the State Board of Pharmacy within ten days after receipt of this Order unless the Board office is already in possession of both. The identification card and wall certificate should be sent by certified mail, return receipt requested.

THIS ORDER WAS APPROVED BY A VOTE OF THE STATE BOARD OF PHARMACY (Aye-5/Nay-0).

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.

Section 119.12 of the Ohio Revised Code authorizes an appeal from this Order. An order that denied admission to an examination, or denied the issuance or renewal of a license or registration, or revoked or suspended a license, may be appealed to the court of common pleas in the Ohio county of your place of business or in your Ohio county of residence. Any other order may be appealed to the Court of Common Pleas of 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 both the State Board of Pharmacy and the appropriate court within fifteen (15) days after the mailing of this Order and in accordance with the requirements of Section 119.12 of the Ohio Revised Code.

BY ORDER OF THE STATE BOARD OF PHARMACY

ORDER MAILED & EFFECTIVE: MARCH 11, 2004

CERTIFIED MAIL / Return Receipt
#7001 0360 0002 4133 1601

By: _____
William T. Winsley, M.S., R.Ph., Executive Director