



OHIO STATE BOARD OF PHARMACY

77 S. High Street, 17th Floor
Columbus, Ohio 43266-0320
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THE STATE BOARD OF PHARMACY
(Docket No. D-890131-091)

In The Matter Of:

TAMARA L. HACKER, R.Ph.
13054 Orrville Street N.W.
North Lawrence, Ohio 44666
(Identification No. 03-3-16845)

INTRODUCTION

THE MATTER OF TAMARA L. HACKER CAME TO HEARING ON JUNE 29, 1989 BEFORE THE FOLLOWING MEMBERS OF THE BOARD: JEROME WIESENHAHN, R.Ph. (presiding); GERALD CLOUSE, R.Ph.; NORMAN LEIBOW, R.Ph.; TIMOTHY MOORE, R.Ph.; BETTY NICHOL, R.Ph.; JOSEPH SABINO, R.Ph.; AND ROBERT VALENTINE, R.Ph.

TAMARA L. HACKER WAS REPRESENTED BY DAVID J. YOUNG AND DAVID GRAUER, AND THE STATE OF OHIO WAS REPRESENTED BY STEVE DLOTT AND LAUREN ROSS, ASSISTANT ATTORNEYS GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Chris Reed - Board of Pharmacy
- (2) Tamara Hacker - Respondent
- (3) George Sertick - Respondent

Respondent's Witnesses:

- (1) Wayne Korte
- (2) Franklin Z. Wickham - Board of Pharmacy
- (3) James E. Tudor

(B) Exhibits

State's Exhibits:

- (1) Exhibit A - Notice of Opportunity letter for Rite Aid Discount Pharmacy #1350 dated January 31, 1989.

- (2) Exhibit B - Notice of Opportunity letter for Tamara L. Hacker, R.Ph. dated January 31, 1989.
- (3) Exhibit C - Notice of Opportunity letter for George Sertick, R.Ph. dated January 31, 1989.
- (4) Exhibit D - Request for Hearing letter dated February 3, 1989.
- (5) Exhibit E - Hearing Schedule letter dated February 6, 1989.
- (6) Exhibit F - Waiver of any technical objections to the hearing date or notice period dated February 10, 1989.
- (7) Exhibit G - Request for Continuance dated February 23, 1989.
- (8) Exhibit H - Letter acknowledging receipt of request for a continuance.
- (9) Exhibit I - Hearing Schedule letter dated March 15, 1989.
- (10) Exhibit J - Notification of change in hearing site letter dated March 20, 1989.
- (11) Exhibit K - Motion and Entry for a Continuance dated March 27, 1989.
- (12) Exhibit L - Hearing Schedule letter dated March 29, 1989.
- (13) Exhibit M - Request for Continuance of June 29, 1989 Hearing.
- (14) Exhibit N - Motion to Withdraw Respondents' Motion for Continuance.
- (15) Exhibit 1 - Application for Terminal Distributor of Dangerous Drug License showing Tamara Hacker as responsible pharmacist.
- (16) Exhibit 2 - Annual Renewal Applications for Tamara Hacker.
- (17) Exhibit 3 - DEA #41 dated March 23, 1988.
- (18) Exhibit 4 - One bottle Flurazepam Hydrochloride 15mg capsules.
- (19) Exhibit 5 - Authorization for Destruction of drugs for George Sertick dated July 30, 1987.
- (20) Exhibit 6 - Letter from Charles P. Olender, Jr., Resident Agent in Charge from the Drug Enforcement Administration dated February 7, 1989.
- (21) Exhibit 16 - Pages 44 and 45 from the Drug Laws of Ohio, Ohio Administrative Code Rule 4729-9-06.

Respondent's Exhibits:

- (1) Exhibit 3 - George Sertick's procedures for DEA destruction.

FINDINGS OF FACT

- (1) From the evidence presented, the State Board of Pharmacy finds that on or about March 23, 1988, Tamara L. Hacker was the responsible pharmacist at Rite Aid Discount Pharmacy #1350, 5463 Manchester Road, Akron, Ohio 44319.
- (2) From the evidence presented, the State Board of Pharmacy finds that, Tamara L. Hacker did, on or about March 23, 1988, at Rite Aid Discount Pharmacy #1350, 5463 Manchester Road, Akron, Ohio 44319, make a false statement in a report or record required by Chapter 3719. of the Revised Code, to wit: Ms. Hacker signed a drug destruction form, DEA Form 41, when the drugs listed thereon were not in fact destroyed. Such conduct is prohibited by Section 2925.23(A) of the Ohio Revised Code.

CONCLUSION OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraph (2) of the Findings Of Fact constitutes willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of the provisions of Chapter 4729. of the Revised Code, within the meaning of Section 4729.16(A)(5) of the Ohio Revised Code.

ORDER

Based on the Board's determination that the aforementioned Findings Of Fact and Conclusion Of Law constitute minor violations of the Ohio Revised Code, it is the Board's belief that while any offense is a serious matter, a written warning is sufficient to protect the public health, safety, and welfare and to ensure that future violations will not occur.

Pursuant to Section 4729.25 of the Ohio Revised Code, Tamara L. Hacker is hereby WARNED to desist from all future violations of the Ohio Revised Code.

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.

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.

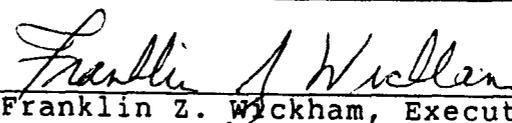
Such an appeal, setting forth the order appealed from and the grounds of the appeal, must be commenced by the filing of a Notice of Appeal with the State Board of Pharmacy and the appropriate court within fifteen (15) days after the mailing of this notice and in accordance with the requirements of Section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

BY ORDER OF THE STATE BOARD OF PHARMACY

CERTIFIED MAIL
Return Receipt
#P 417 664 894

ORDER MAILED: AUGUST 23, 1989

FZW/pw

By 
Franklin Z. Wickham, Executive Director

cc: Steve Dlott, Assistant Attorney General
David J. Young & David Grauer, Attorneys for Respondent
Squire, Sanders & Dempsey, 250 E. Broad St., Columbus, OH 43215