
OHIO STATE BOARD OF PHARMACY

ORDER OF THE STATE BOARD OF PHARMACY
(Docket No. D-920409-134)

In The Matter Of:

MICHAEL JOSEPH PODEWELTZ, R.Ph.
3457 North Drive
Beavercreek, Ohio 45432
(R.Ph. No. 03-3-17040)

Introduction

THE MATTER OF MICHAEL JOSEPH PODEWELTZ CAME TO HEARING ON JUNE 26, 1992 BEFORE THE FOLLOWING MEMBERS OF THE BOARD: BETTY J. NICHOL, R.Ph. (presiding); METTA LOU HENDERSON, R.Ph.; PAUL F. LAMPING, R.Ph.; NORMAN D. LEIBOW, R.Ph.; TIMOTHY D. MOORE, R.Ph.; RUTH A. PLANT, R.Ph.; AND JOSEPH R. SABINO, R.Ph.

MICHAEL JOSEPH PODEWELTZ WAS REPRESENTED BY MATTHEW RYAN ARNTZ, AND THE STATE OF OHIO WAS REPRESENTED BY RONDA ANDERSON AND DIANE WEAVER, ASSISTANT ATTORNEYS GENERAL.

Summary Of Evidence

(A) Testimony

State's Witnesses:

- (1) David L. Rowland, Ohio State Board of Pharmacy
- (2) Susan V. Orr, Ohio State Board of Pharmacy
- (3) Michael J. Podeweltz, Respondent
- (4) Timothy J. Benedict, Ohio State Board of Pharmacy
- (5) Jennifer Toops

Respondent's Witnesses:

- (1) None

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1A - Notice of Opportunity letter dated April 9, 1992.
- (2) Exhibit 1B - Hearing Request letter dated May 6, 1992.
- (3) Exhibit 1C - Hearing Schedule letter dated May 12, 1992.
- (4) Exhibit 1D - Hearing Representation and Continuance Request letter dated June 17, 1992.
- (5) Exhibit 2 - Pharmacist File Front Sheet of Michael Joseph Podeweltz showing original date of licensure as August 3, 1987.
- (6) Exhibit 3 - Pharmacy Board Order, Docket No. D-900907-014, of Michael J. Podeweltz, R.Ph. dated December 18, 1990.
- (7) Exhibit 4 - Domestic Return Receipt, Article No. P 497 578 770, addressed to Michael J. Podeweltz, R.Ph.; sent on December 18, 1990; received and signed by Mike Podeweltz on December 27, 1990.

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- (8) Exhibit 6 - Sixteen prescriptions numbered as follows: 231605, 231604, 231603, 231602, 231598, 231595, 231589, 231580, 231571, 231617, 231616, 231615, 231614, 231613, 231600, and 231601.
- (9) Exhibit 7 - Four-page computer printout of Drug Mart #4, Prescription Log Report, showing dispensing records of December 31, 1990.
- (10) Exhibit 8 - Copy of Autopay Employee Earnings Record of Michael Podeweltz for the quarter ending March 31, 1991.
- (11) Exhibit 9 - Twenty-three prescriptions numbered as follows: 231645, 231646, 231636, 231632, 231630, 231627, 231626, 231647, 231652, 231653, 231654, 231656, 231670, 231669, 231679, 231678, 231680, 231684, 231629, 231631, 231625, 231624, and 231623.
- (12) Exhibit 10 - Handwritten statement of Jennifer Toops signed and notarized on July 1, 1991.
- (13) Exhibit 11 - Handwritten statement of Robert Kleine signed and notarized on July 1, 1991.
- (14) Exhibit 12 - Roche Biomedical Laboratories Drug Profile of Mike Podeweltz taken on October 30, 1991.

Respondent's Exhibits:

- (1) Exhibit A - Copy of note stating "10 days after receipt of letter suspension takes effect".
- (2) Exhibit B - Copy of Long Distance Call Sheet dated from October 23, 1990 to February 22, 1991.
- (3) Exhibit C - Two-page copy of Allnet Communication Services, Inc., Itemized Statement of Account, No. 0110806960, dated January 7, 1991.
- (4) Exhibit D - Three-page copy of Motion to Dismiss and Request for Hearing of Michael J. Podeweltz, Case No. 92-02-CRB-057, in the Municipal Court of Miamisburg, Ohio, Criminal Division dated March 24, 1992.
- (5) Exhibit E - Copy of Motion for Leave to Withdraw of Michael J. Podeweltz, Case No. 92-02OCRB-057, in the Municipal Court of Miamisburg, Ohio, Civil Division dated April 8, 1992.

Findings Of Fact

- (1) From the evidence presented, the State Board of Pharmacy finds that records of the Board indicate that Michael Joseph Podeweltz was originally licensed in the state of Ohio on August 3, 1987, pursuant to examination, and was suspended from the practice of pharmacy indefinitely on December 18, 1990. Records further indicate that Michael Joseph Podeweltz received his notice of suspension on December 27, 1990, and that his license was reinstated on June 28, 1991. Michael Joseph Podeweltz is currently licensed to practice pharmacy in Ohio.
- (2) From the evidence presented, the State Board of Pharmacy finds that Michael Joseph Podeweltz did, on or about December 29, 1990, while not being a registered pharmacist or pharmacy intern, dispense and/or sell dangerous drugs, to wit: after having his license to practice pharmacy suspended by the Board, Michael Joseph Podeweltz practiced pharmacy by dispensing drugs at Drug Mart, Inc., 221 Springboro Pike, Dayton, Ohio 45449. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.

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- (3) From the evidence presented, the State Board of Pharmacy finds that Michael Joseph Podeweltz did, on or about December 31, 1990, while not being a registered pharmacist or pharmacy intern, dispense and/or sell dangerous drugs, to wit: after having his license to practice pharmacy suspended by the Board, Michael Joseph Podeweltz practiced pharmacy by dispensing drugs at Drug Mart, Inc., 221 Springboro Pike, Dayton, Ohio 45449. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.
- (4) From the evidence presented, the State Board of Pharmacy finds that Michael Joseph Podeweltz as the Responsible Pharmacist of record at Drug Mart, Inc., terminal distributor license number 02-444400, did, on or about December 31, 1990, fail to provide supervision and control of dangerous drugs and adequate safeguards to assure that dangerous drugs were being distributed in accordance with all state and federal laws, to wit: while being the only pharmacist on duty in the pharmacy, Michael Joseph Podeweltz failed to provide personal supervision over the dangerous drug stock when he departed the premises, leaving the pharmacy under the supervision and control of a technician. Such conduct is in violation of Rules 4729-9-05 and 4729-9-11 of the Ohio Administrative Code and Section 4729.55 of the Ohio Revised Code.
- (5) From the evidence presented, the State Board of Pharmacy finds that Michael Joseph Podeweltz did, on or about October 30, 1991, knowingly possess or use a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Michael Joseph Podeweltz possessed within his body Cocaine, a schedule II controlled substance, without having been prescribed such substance. Such conduct is in violation of Section 2925.11 of the Ohio Revised Code.

Conclusions Of Law

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2), (3), and (5) of the Findings Of Fact constitute being guilty of gross immorality as provided in Division (A)(1) of Section 4729.16 of the Ohio Revised Code.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2) through (4) of the Findings Of Fact constitute being guilty of unprofessional conduct in the practice of pharmacy 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 liquor or 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 (2) through (5) 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.

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Action Of The Board

Pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy takes the following actions concerning the pharmacist license, No. 03-3-17040, held by Michael Joseph Podeweltz:

(A) On the basis of paragraph (1) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby revokes the pharmacist identification card held by Michael J. Podeweltz effective as of the date of the mailing of this Order. Mr. Podeweltz may not practice pharmacy in the state of Ohio after the effective date.

(B) On the basis of paragraph (2) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby revokes the pharmacist identification card held by Michael J. Podeweltz effective as of the date of the mailing of this Order. Mr. Podeweltz may not practice pharmacy in the state of Ohio after the effective date.

(C) On the basis of paragraph (3) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby revokes the pharmacist identification card held by Michael J. Podeweltz effective as of the date of the mailing of this Order. Mr. Podeweltz may not practice pharmacy in the state of Ohio after the effective date.

(D) On the basis of paragraph (4) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby revokes the pharmacist identification card held by Michael J. Podeweltz effective as of the date of the mailing of this Order. Mr. Podeweltz may not practice pharmacy in the state of Ohio after the effective date.

Division (B) of Section 4729.16 of the Revised Code provides in pertinent part 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 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 (Aye-5/Nay-0).

MOTION CARRIED.

SO ORDERED.

OHIO STATE BOARD OF PHARMACY

THE STATE BOARD OF PHARMACY
(Docket No. D-910305-060)

In The Matter Of:

MICHAEL J. PODEWELTZ, R.Ph.
3457 North Drive
Beaver Creek, Ohio 45432
(R.Ph. No. 03-3-17040)

INTRODUCTION

THE MATTER OF MICHAEL J. PODELWELTZ CAME TO HEARING ON APRIL 23, 1991 BEFORE THE FOLLOWING MEMBERS OF THE BOARD: JOSEPH R. SABINO, R.Ph. (presiding); METTA LOU HENDERSON, R.Ph.; NORMAN LEIBOW, R.Ph.; TIMOTHY MOORE, R.Ph.; BETTY NICHOL, R.Ph.; ROBERT VALENTINE, R.Ph.; AND MELVIN WILCZYNSKI, R.Ph.

MICHAEL PODEWELTZ WAS REPRESENTED BY JAMES ARMSTRONG, AND THE STATE OF OHIO WAS REPRESENTED BY STEVE DLOTT, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

(1) None

Respondent's Witnesses:

(1) Michael J. Podeweltz, R.Ph., Respondent

(B) Exhibits

State's Exhibits:

- (1) Exhibit B - Appearance Request letter dated February 25, 1991.
- (2) Exhibit C - Appearance Schedule letter dated March 5, 1991.
- (3) Exhibit 1 - Notice of Opportunity letter dated September 7, 1990.
- (4) Exhibit 2 - Order of the Board dated December 18, 1990.

Respondent's Exhibits:

- (1) Exhibit 1 - Letter to James Armstrong, Attorney for Respondent, from James J. Davis, Outpatient Counselor, Dartmouth Hospital dated April 22, 1991.
- (2) Exhibit 2 - Copy of letter to David Powell, Miami County Municipal Court, from James J. Davis, Outpatient Counselor, Dartmouth Hospital dated March 5, 1991.

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- (3) Exhibit 3 - Letter to James Armstrong, Attorney for Respondent, from James J. Davis, Outpatient Counselor, Dartmouth Hospital dated February 11, 1991.
- (4) Exhibit 4 - Letter to David Powell, Miami County Municipal Court, from James J. Davis, Outpatient Counselor, Dartmouth Hospital dated January 7, 1991.
- (5) Exhibit 5 - Copy of Dartmouth North Outpatient Treatment signed by Michael Podeweltz on December 31, 1990.
- (6) Exhibit 6 - Letter to James Armstrong, Attorney for Respondent, from Gale Hutchinson, Detox Counselor, Dartmouth Hospital dated January 4, 1991.

FINDINGS OF FACT

- (1) From the evidence presented, the State Board of Pharmacy finds that the Board indefinitely suspended the pharmacist identification card held by Michael J. Podeweltz by Board Order dated December 18, 1990.
- (2) From the evidence presented, the State Board of Pharmacy finds that, in its Order of December 18, 1990, the Board permitted Michael J. Podeweltz to petition for reinstatement of his pharmacist license provided that at his appearance evidence of meeting certain conditions could be presented to the Board.
- (3) From the evidence presented, the State Board of Pharmacy finds that Michael J. Podeweltz appeared before the Board and presented results of an evaluation by a drug treatment program to the Board and provided evidence of compliance with the program as required by the Board's Order.
- (4) From the evidence presented, the State Board of pharmacy finds that Michael J. Podeweltz petitions the Board for reinstatement of his pharmacist identification card to practice pharmacy in Ohio.

ORDER

Pursuant to satisfactorily meeting the conditions of the December 18, 1990 Order of the Board, the State Board of Pharmacy hereby agrees to reinstate the pharmacist license, No. 03-3-17040, of Michael J. Podeweltz with the following conditions:

(A) Michael J. Podeweltz provides evidence prior to August 1, 1991 that he has entered into a contract with the Pharmacists Rehabilitation Organization, Inc., or an equivalent program acceptable to the Board, for a period of five years. The contract must provide that:

- (1) random observed urine screens shall be conducted at least every three months;

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(2) regular attendance at an Alcoholics Anonymous, Narcotics Anonymous, or a similar support group meeting is required during outpatient treatment and/or drug aftercare; and

(3) the program will immediately report to the Board of Pharmacy any violations of the contract.

(B) Michael J. Podeweltz submits a copy of the contract to the Board as soon as it has been agreed to by the program.

(C) Michael J. Podeweltz submits quarterly progress reports to the Board that include:

(1) written reports 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.

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

MOTION CARRIED.

SO ORDERED.

OHIO STATE BOARD OF PHARMACY

THE STATE BOARD OF PHARMACY
(Docket No. D-900907-014)

In The Matter Of:

MICHAEL J. PODEWELTZ, R.Ph.
3457 North Drive
Beaver Creek, Ohio 45432
(R.Ph. No. 03-3-17040)

INTRODUCTION

THE MATTER OF MICHAEL J. PODEWELTZ CAME TO HEARING ON OCTOBER 25, 1990 BEFORE THE FOLLOWING MEMBERS OF THE BOARD: JOSEPH R. SABINO, R.Ph. (presiding); GERALD CLOUSE, R.Ph.; METTA LOU HENDERSON, R.Ph.; NORMAN LEIBOW, R.Ph.; TIMOTHY MOORE, R.Ph.; BETTY NICHOL, R.Ph.; AND ROBERT VALENTINE, R.Ph.

MICHAEL J. PODEWELTZ WAS REPRESENTED BY JAMES S. ARMSTRONG, AND THE STATE OF OHIO WAS REPRESENTED BY JEANNY EATON, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) David D. Avery - State Board of Pharmacy
- (2) Timothy Heenan - Rite Aid Corporation
- (3) Michael J. Podeweltz, Respondent

Respondent's Witnesses:

- (1) None

(B) Exhibits

State's Exhibits:

- (1) Exhibit A - Notice of Opportunity letter dated September 7, 1990.
- (2) Exhibit B - Hearing Request letter dated October 1, 1990.
- (3) Exhibit C - Hearing Schedule letter dated October 5, 1990.
- (4) Exhibit 1 - Pharmacist File Front Sheet of Michael Joseph Podeweltz showing original date of registration as August 3, 1987.
- (5) Exhibit 3 - Statement of Scott R. Cox dated February 22, 1990.
- (6) Exhibit 4 - Statement of Heather M. Miller dated February 22, 1990.
- (7) Exhibit 5 - Statement of Kimberly S. Herbert dated February 22, 1990.

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- (8) Exhibit 6 - Journal Entry for Michael J. Podeweltz, Case No. 10CRB-819-S-PHAR01.
- (9) Exhibit 7 - Three-page printout of Rite Aid Pharmacy #3142 Prescription Register 02/12/90 through 02/12/90.
- (10) Exhibit 8 - Prescription 113754.
- (11) Exhibit 9 - Prescription 113756.
- (12) Exhibit 10 - Prescription 113758.

Respondent's Exhibits:

- (1) Exhibit 1 - Letter from David S. Powell, Probation Officer, Miami County Municipal Court, dated October 25, 1990.

FINDINGS OF FACT

- (1) From the evidence presented, the State Board of Pharmacy finds that records of the board of pharmacy indicate that Michael J. Podeweltz was originally licensed to practice pharmacy in the state of Ohio since August 3, 1987, and has been practicing pharmacy in Ohio since that date.
- (2) From the evidence presented, the State Board of Pharmacy finds that Michael J. Podeweltz did, on or about February 12, 1990, while practicing pharmacy at Rite Aid Pharmacy #3132 in Troy, Ohio, knowingly possess and use a controlled substance when his conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Revised Code, to wit: Michael J. Podeweltz possessed and used marijuana, a schedule I controlled substance, while practicing pharmacy. Such conduct is in violation of Section 2925.11 of the Ohio Revised Code.
- (3) From the evidence presented, the State Board of Pharmacy finds that Michael J. Podeweltz is addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy, to wit: due to Michael J. Podeweltz's abuse of controlled substances, and because he has been observed to be practicing pharmacy while under the influence of drugs, Michael J. Podeweltz is unfit to practice pharmacy within the meaning of Section 4729.16 of the Ohio Revised Code.
- (4) From the evidence presented, the State Board of Pharmacy finds that Michael J. Podeweltz was, on or about May 31, 1990, convicted in the Miami County Municipal Court of Attempted Complicity to Unlawful Selling of Drugs in violation of Section 2923.02 of the Ohio Revised Code as it relates to Sections 2923.03 and 4729.28 of the Ohio Revised Code, a misdemeanor of the fourth degree.
- (5) From the evidence presented, the State Board of Pharmacy finds that Michael J. Podeweltz did, on or about February 12, 1990, permit another, not a pharmacist or pharmacy intern, to practice pharmacy, to wit: Michael J. Podeweltz left the pharmacy for

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extended periods of time, leaving a pharmacy technician alone in the pharmacy while Mr. Podeweltz was in another room abusing a controlled substance, and permitted that technician to fill the following prescriptions:

<u>Prescription Number</u>	<u>Drug</u>
102182	Hydrochlorothiazide 50mg #100
113210	Oxazepam 15mg #90
113754	Vicodin #60
113756	Zestril 10mg #30
113758	Triple Sulfa Vaginal Cream #78

Such conduct is in violation of Section 2923.03 of the Ohio Revised Code as it relates to Section 4729.28 of the Ohio Revised Code.

CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2) and (4) of the Findings Of Fact constitute gross immorality as provided in Division (A)(1) of Section 4729.16 of the Ohio Revised Code.
- (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 dishonesty and unprofessional conduct in the practice of pharmacy 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 paragraphs (2) and (3) of the Findings Of Fact constitute abusing drugs 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 paragraph (4) of the Findings Of Fact constitutes having been convicted of a misdemeanor related to the practice of pharmacy as provided in Division (A)(4) of Section 4729.16 of the Ohio Revised Code.
- (5) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (4) of the Findings Of Fact constitutes willfully violating 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.
- (6) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (5) of the Findings Of Fact constitutes permitting anyone other than a pharmacist or pharmacy intern to practice pharmacy as provided in Division (A)(6) of Section 4729.16 of the Ohio Revised Code.

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ORDER

Pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy hereby suspends the pharmacist identification card held by Michael J. Podeweltz, No. 03-3-17040, indefinitely.

Further, Michael J. Podeweltz may appear before the Board at any time to petition for reinstatement of his license to practice and, if granted, under what conditions the license will be reinstated provided Mr. Podeweltz can present results of an evaluation by a drug treatment program acceptable to the Board and provide evidence of compliance with the program's recommendation.

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.