

BEFORE THE STATE BOARD OF PHARMACY
OF THE STATE OF KANSAS

KANSAS STATE BOARD OF PHARMACY
of the State of Kansas,
Plaintiff,

vs.

WILLIAM R. WALTRIP,
License No. 8607,
Defendant.

FINAL ORDER OF REVOCATION

The above captioned case comes before the State Board of Pharmacy for Formal Hearing this 17th day of April, 1993, at the Red Coach Inn Meeting Room, 915 E. 53rd North, Wichita, Kansas 67219, at 10:30 A.M. The State Board of Pharmacy appears by Dana Creitz, President and Presiding Officer; Charlotte Brock, Vice-President; Kathleen Mahanna, Pharmacist; Barbara Renick, Pharmacist; Hoyt Kerr, Pharmacist; and Dr. Margaret Young, Consumer Representative. Also appearing are Tom C. Hitchcock, Executive Secretary, and the attorney for the Board, Dana W. Killinger. The Defendant, William R. Waltrip, appears personally.

As preliminary matters, Plaintiff's attorney requested a ruling on his motions to amend the Petition and motion to introduce the following depositions into evidence in lieu of testimony, to-wit: Robin F. Richardson, Abbie Smith, Terry Goff, Charles Sheppard, M.D. and George Mallams.

The motions were sustained.

Thereupon, Plaintiff's attorney introduced as evidence, the Transcript of the January 25, 1993, Emergency Hearing and it was admitted.

Thereupon Plaintiff's attorney called as a witness, Alfred Locke of the Pittsburg Police Department and Agent Guy Teeselink of the Kansas Bureau of Investigation.

After the testimony of Albert Locke and Guy Teeselink, Plaintiff's attorney rested and Defendant made a brief statement.

Thereupon the Board went into executive session for quasi-judicial considerations of the matters and upon reconvening set forth its finding of fact and law and sanctions to be imposed.

FINDING OF FACT AND CONCLUSION OF LAW

1. The Board finds Defendant, William R. Waltrip is a licensed pharmacist in the State of Kansas, having License No. 8607.

COUNT I

2. The Board finds that based on the Deposition and Exhibits of Dr. Charles Sheppard, M.D., that on or about November 21, 1992, Defendant while being treated at St. John Regional Health Center, Springfield, Missouri, in the emergency room, tested positive to a urine test for the following controlled prescription substances:

barbiturates, opiates, amphetamines and benzodiazepines. When asked, Defendant had no explanation as to how these drugs got into his circulatory system. The foregoing is a violation of: K.S.A. 65-4127a(a), K.S.A. 65-1627(a)(13) and K.S.A. 65-1626(dd)(5).

COUNT II

3. That based on the testimony and exhibits of Kim Kauffman and the Deposition of George Mallams, Defendant was employed at the Springfield Greene County Public Health Center Pharmacy between December 17, 1992 and December 30, 1992, being the only pharmacist employed except on December 17, 18 and 30, 1992, on which days the pharmacy owner and pharmacist in charge, George Mallams, was working.

4. At all other times, Defendant was working relief and was the only person having the keys to said pharmacy. No other pharmacist works at the Springfield Greene County Public Health Center Pharmacy and no other person is employed there or has access to the pharmacy other than George Mallams.

5. An accountability inventory was taken by Kim Kauffman, Missouri Board Inspector and Larry Ferguson a BNDD Inspector. A beginning inventory was taken for the following listed prescription medications on December

17, 1992, to-wit:

- (a) Butalbital/Acetaminophen//Caffeine
- (b) Chlorzoxazone, 500 mg.
- (c) Endal HD (a C III controlled prescription medication)
- (d) Carisoprodol 350 mg.
- (e) Cyclobenzaprine 10 mg.

An ending inventory was taken on December 30, 1992, and the following shortages were found, to-wit:

- (a) Butalbital/Acetaminophen/Caffeine
76 dosage units, a 10.4% shortage
- (b) Chlorzoxazone,
40 dosage units, a 9.6% shortage
- (c) Endal H.D.
5.5 ozs., a 19.6% shortage
- (d) Carisoprodol 350 mg.
184 dosage units, a 42.2 % shortage
- (e) Cyclobenzaprine 10 mg.,
130 dosage units, a 18.3 % shortage

6. That Defendant diverted to his own use the prescription medications indicated in Paragraph 5 above, all in violation of 21 U.S.C. 353(b)(1)(A) &(B)(i)(ii), 21 U.S.C. 841(a)(1), 21 C.F.R. 1304.01 et. sec. and K.S.A. 65-1626(dd)(5) and K.S.A. 65-4121.

COUNT III

7. That based on the Deposition and exhibits of Terry Goff and Deposition of Robin F. Richardson, and Deposition of Abbie Smith, Defendant was employed at K-Mart Pharmacy # 7193 in Springfield, Missouri between the dates of October 22, 1992, and November 21, 1992.

8. An accountability inventory of C II controlled medications was taken on August 31, 1992, with only minimal shortages or overages, to-wit:

Dexidrine 5 mg. tab	-1 dosage unit
Percocet 5	-1 dosage unit
Ritalin 10 mg(generic)	-1 dosage unit

K-Mart Pharmacies routinely take accountability inventories every several months and prior to the August 31, 1992, inventories have experienced only minimal overages or shortages.

9. After the incident involving Defendant, on November 21, 1992, another accountability inventory was taken on December 16, 1992, with the following discrepancies, to-wit:

Demerol 50 mg tab	-105 dosage units
Demerol 50 mg tab(generic)	-62 dosage units
Dexidrine 5 mg tab	+29 dosage units
Dilaudid 2 mg tab	-10 dosage units
MS Contgin 30 mg	-100 dosage units
Percodan tab	-14 dosage units
Percodan (generic)tab	-70 dosage units
Ritalin 5 mg tab	+90 dosage units
Ritalin 5 mg tab(generic)	+100 dosage units
Ritalin 20 mg	+42 dosage units
Ritalin SR 20 mg	-10 dosage units
Ritalin SR 20(generic)	+120 dosage units

10. The Defendant diverted to his own use the controlled substances medications indicted in Paragraph 10, all in violation of: 21 U.S.C. 353(b)(1)(A), 21 U.S.C. 841(a)(1), 21 C.F.R. 1304.01 et sec, K.S.A. 65-1626(dd)(5) and K.S.A.

65-4121.

COUNT IV

11. That based on the testimony of Albert Locke and Guy Teeselink on or about July 2, 1975, Defendant was apprehended having in his possession the following controlled substances:

Cydril	52 dosage units
Dexamyl Spansules #2	37 dosage units
Darvon ASA	2 dosage units
Desoxyn 15 mg	Sealed bottle of 100 dosage units

all not having prescription labels on the containers.

12. Defendant stated to Agent Guy S. Teeselink on or about July 9, 1975, that "I (Defendant, William Waltrip) take the amphetamines myself, just like all the other pharmacists do, like on trips, and I've had them in my car for years, some of them are samples.", all in violation of 21 U.S.C. 353(b)(1)B.

13. That pursuant to K.S.A. 65-1627(a)(3) and (5) and K.S.A. 65-1627(a)(5)(1975 Supp), the State Board of Pharmacy of the State of Kansas has authority to revoke, suspend, place on probation or deny license renewal.

IT IS THEREFORE ORDERED THAT Defendant, William R. Waltrip, License No. 8607 be revoked and costs of this matter be assessed to Defendant.

Pursuant to K.S.A. 77-526(c) the Defendant is advised

of the following administrative remedies:


A. This Order signed and issued by the Presiding Officer who is also President and agency head of the State Board of Pharmacy of the State of Kansas is the Final Order pursuant to K.S.A. 77-526(a).

B. Pursuant to K.S.A. 77-529, Defendant has Fifteen (15) days from service of the Final Order to file a Petition upon the Agency Head, for reconsideration.

C. Pursuant to K.S.A. 77-528, Defendant may submit a petition on the Agency Head for a stay of the Final Order.

D. If no action is taken on the Petition for Reconsideration within Twenty (20) days from filing, the Petition is deemed denied, K.S.A. 77-529(b), and the Defendant has Thirty (30) days to file a Petition for Judicial Review, K.S.A. 77-613.

E. Defendant may make application for reinstatement of his license to practice pharmacy One (1) year from the effective date of this Final Order; K.S.A. 65-1627A.
Dated this 22 day of April, 1993.



Dana Creitz, President and
Presiding Officer
State Board of Pharmacy
of the State of Kansas

CERTIFICATE OF MAILING

I do hereby certify that a copy of the Order of Revocation was mailed, Certified, Return Receipt Requested, first class postage prepaid, on this 22 day of April, 1993, addressed to the following:

William R. Waltrip
302 ½ W. 6th
Pittsburg, KS 66762



Dana Creitz