

BEFORE THE STATE BOARD OF PHARMACY
OF THE STATE OF KANSAS

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

vs.

THEODORE CHARLES WEEKS,
License No. 8271,
Defendant.

FINAL ORDER

The above captioned matter comes before the Board for Formal Hearing this 27th day of August, 1993, at 1:30 P.M. at the Wichita East Hotel, 549 S. Rock Road, Wichita, Kansas.

The State Board of Pharmacy appears by Dana Creitz, Presiding Officer; Charlotte Brock, President; Hoyt Kerr, Vice-President; Monte Baugher, Pharmacist; Glen Mathis, Pharmacist; and Dr. Margaret Young, Consumer Representative. Also appearing are Tom C. Hitchcock, Executive Secretary, and the attorney for the Board, Dana W. Killinger. Theodore C. Weeks does not appear in person nor by counsel.

Counsel introduces a certified return receipt for mailing of the Transcript of prior hearings, Amended Petition, Motion to Amend the Petition and the Notice of Hearing for today's hearing. Also counsel for Plaintiff introduces

a handwritten letter received from Defendant, Theodore C. Weeks indicating he would not be present at the hearing on August 27, 1993. The letter did not indicate Defendant wished or requested the hearing be continued.

As a preliminary matter, Plaintiff requested his Motion to Amend the Petition be sustained and the Presiding Officer sustained the Motion and the Amended Petition was admitted.

Whereupon Counsel for the Plaintiff requested the transcript from the April 17, 1993, Hearing be admitted into evidence and the same was so admitted. Counsel then called Robert Duncan, Board Inspector, to testify and admitted into evidence certain prescription hard copies as exhibits. After hearing the testimony of Robert Duncan, counsel for the Plaintiff moved to introduce a certified copy of a Journal Entry of Plea from Harper County District Court, wherein Defendant, Theodore Weeks, entered a plea of guilty to K.S.A. 65-4127a, a felony crime. Said Journal Entry of Plea was admitted.

Whereupon, the Board went into Executive Session for quasi-judicial reasons and considering the testimony and exhibits of the January 25, 1993, April 17, 1993, and August 27, 1993, hearings.

Upon reconvening the Presiding Officer made the following finding of fact and conclusions of law and on behalf of the Board as a whole, imposed the Board's sanctions, to-wit:

1. That based on the testimony of Bruce H. Morton and Kent Koehler and exhibits introduced at the January 25, 1993 Hearing and the testimony of Kent Koehler and exhibits at the April 17, 1993 Hearing, the Board finds substantial evidence that on or about December 29, 1992, Defendant supplied prescription controlled substances, to-wit: Lortabs and hydrocodone/APAP to Bruce Morton who was acting as an undercover agent for the D.E.A without an oral authorization or written prescription from a physician.

2. Said controlled substances were contained in a prescription vial with no labels.

3. The purpose of such diversion of controlled substances to Bruce Morton was to obtain the sexual favors of one "Marcia" who was also present on said date.

4. That the facts alleged in Paragraphs 1, 2 and 3 constitute violations of 21 U.S.C. 353(b)(1)(A), 21 U.S.C. 841(a)(1), 21 C.F.R. 1304.01 et sec, 21 C.F.R. 1306.04, K.S.A. 65-1637(a), K.S.A. 65-4118(a)(3), K.S.A. 65-4121, K.S.A. 65-4127a(a), K.S.A. 65-4123(c)(d), K.S.A.

65-1626(dd)(2)(3)(5)(9), K.A.R. 68-20-16 and K.A.R. 68-20-20(a).

5. That based on the testimony of Robert Duncan and exhibits introduced, the Board finds by substantial evidence that Defendant entered into the automated prescription system at the Harper Pharmacy, Prescription No. C417281 on May 26, 1992, indicating the patient as Sharon Mize and prescribed by Dr. Brammer, D.D.S. for Lortabs 7.5 mg, 30 dosage units; Lortabs being a class III controlled prescription medication. Furthermore the hard copy of said prescription indicates that a "Jeannie" phoned the prescription to the pharmacy. Said prescription hard copy indicates Defendant, Theodore C. Weeks as the dispensing pharmacist.

6. Dr. Brammer, D.D.S. has no patient by the name of Sharon Mize or has anyone employed in his office by the name of "Jeannie" who could have phoned said prescription to the Harper Pharmacy.

7. That the finding of facts stated in Paragraphs 5 and 6 are violations of 21 U.S.C. 843(a)(4)(A) and K.S.A. 651626(dd)(4).

8. That based on the testimony of Robert Duncan and exhibits introduced the Board finds by substantial

evidence that Defendant entered into the automated prescription system at the Harper Pharmacy Prescription No. C419790 on December 11, 1992, indicating the patient as Rosemary Young and prescribed by Dr. Galvin, M.D. for Valium 5 mg, 50 dosage units; Valium being a class IV controlled prescription medication. Furthermore, the hard copy of said prescription indicates that a "Patti" phoned the prescription to the pharmacy. Said prescription hard copy indicates defendant, Theodore C. Weeks as the dispensing pharmacist.

9. Dr. Galvin, M.D. has no patient by the name of Rosemary Young or has anyone employed in his office by the name of "Patti" who could have phoned said prescription to the Harper Pharmacy.

10. That the finding of facts stated in Paragraphs 8 and 9 are violations of: 21 U.S.C. 843(a)(4)(A) and K.S.A. 65-1626(dd)(4).

11. That based on the testimony of Robert Duncan and exhibits introduced the Board finds by substantial evidence that Defendant entered into the automated prescription system at the Harper Pharmacy, Prescription No. C417179 on May 15, 1992, indicating the patient as Rosemary Young and prescribed by Dr. Galvin, M.D. for Lortabs 7.5 mg,

30 dosage units, Lortabs being a class III controlled prescription medication. Furthermore, the hard copy of said prescription indicates that a "Susan" phoned the prescription to the pharmacy. Said prescription hard copy indicates Defendant, Theodore C. Weeks as the dispensing pharmacist.

12. Dr. Galvin, M.D. has no patient by the name of Rosemary Young or has anyone employed in his office by the name of "Susan" who could have phoned said prescription to the Harper Pharmacy.

13. That the finding of facts stated in Paragraphs 11 and 12 are violations of: 21 U.S.C. 843(a)(4)(A) and K.S.A. 65-1626(dd)(4).

14. That based on the testimony of Robert Duncan and exhibits introduced the Board finds by substantial evidence that Defendant entered into the automated prescription system at the Harper Pharmacy, Prescription No. C416928 on April 29, 1992, indicating the patient as Glen Mason and prescribed by Dr. Gausman, D.D.S. for Lortabs 7.5 mg, 24 dosage units; Lortabs being a class III controlled prescription medication. Furthermore, the hard copy of said prescription indicates that a "Carol" phoned the prescription to the pharmacy. Said prescription hard copy

indicates Defendant, Theodore C. Weeks as the dispensing pharmacist.

15. Dr. Galvin, M.D. has no patient by the name of Glen Mason or has anyone employed in his office by the name of "Carol" who could have phoned said prescription to the Harper Pharmacy.

16. That the finding of facts stated in Paragraphs 14 and 15 are violations of: 21 U.S.C. 843(a)(4)(A) and K.S.A. 65-1626(dd)(4).

17. That based on the testimony of Robert Duncan and exhibits introduced the Board finds by substantial evidence that Defendant entered into the automated prescription system at the Harper Pharmacy, Prescription No. C417141 on May 13, 1992, indicating the patient as Brenda Klein and prescribed by Dr. Fahrenholtz, M.D. for Lortabs 7.5 mg, 30 dosage units; Lortabs being a class III controlled prescription medication. Furthermore, the hard copy of said prescription indicates that a "Carol" phoned the prescription to the pharmacy. Said prescription hard copy indicates Defendant, Theodore C. Weeks as the dispensing pharmacist.

18. Dr. Fahrenholtz, M.D. has no patient by the name of Brenda Klein or has anyone employed in his office

by the name of "Carol" who could have phoned said prescription to the Harper Pharmacy.

19. That the finding of facts stated in Paragraphs 17 and 18 are violations of: 21 U.S.C. 843(a)(4)(A) and K.S.A. 65-1626(dd)(4).

20. That based on the testimony of Robert Duncan and exhibits introduced the Board finds by substantial evidence that Defendant entered into the automated prescription system at the Harper Pharmacy, Prescription No. C417043 on May 6, 1992, indicating the patient as Ron Cole and prescribed by Dr. Drake, D.D.S. for Lortabs 7.5 mg, 30 dosage units; Lortabs being a class III controlled prescription medication. Furthermore, the hard copy of said prescription indicates that a "Kay" phoned the prescription to the pharmacy. Said prescription hard copy indicates Defendant, Theodore C. Weeks as the dispensing pharmacist.

21. Dr. Drake, D.D.S. has no patient by the name of Ron Cole or has anyone employed in his office by the name of "Kay" who could have phoned said prescription to the Harper Pharmacy.

22. That the finding of facts stated in Paragraphs 20 and 21 are violations of: 21 U.S.C. 843(a)(4)(A) and K.S.A. 65-1626(dd)(4).

23. That based on Exhibit J introduced into evidence, the Board finds by substantial evidence that Defendant, Theodore C. Weeks pleaded guilty to a felony crime, to-wit: K.S.A. 65-4127a as alleged in Count VIII of the Amended Petition.

24. That pursuant to K.S.A. 65-1627(a)(3)(5) & 8 the Board has the power to revoke, suspend or place on probation Defendant's license to practice pharmacy.

IT IS THE ORDER OF THIS BOARD that the pharmacy license of Defendant, Theodore C. Weeks, License No. 8271, be revoked and that pursuant to K.S.A. 65-1627h, Defendant pay the costs herein.

Pursuant to K.S.A. 77-526 the Defendant is advised of the following administrative remedies:

(A) 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.

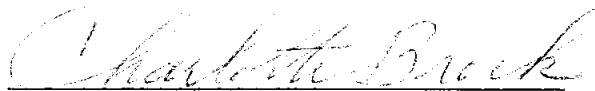
(B) Pursuant to K.S.A. 77-528, Defendant may submit a petition on the Agency Head for a stay of the Final Order.

(C) 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.

(D) 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 27 day of September, 1993.

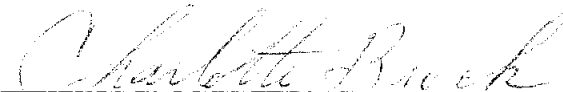


Charlotte Brock, President
State Board of Pharmacy of
the State of Kansas

CERTIFICATE OF MAILING

I hereby certify that a copy of the above and foregoing
Order was mailed Certified, Return Receipt Requested,
First Class Postage prepaid, on this 27 day of September
1993, addressed to the following:

Theodore C. Weeks
c/o Hart
250 N. Rock Road #110
Wichita, KS 67206



Charlotte Brock
President