

FILE:H
89-6-H01

BEFORE THE ARIZONA STATE BOARD OF PHARMACY

1 In the Matter of the Hearing to)
2 Determine Whether or Not to Revoke)
3 Suspend, or Place on Probation the)
4 Certificate of Registration Number)
5 5460 censure or fine JOSEPH F.)
6 HANDS JR.)

FINDINGS OF FACT
CONCLUSIONS OF LAW
AND THE BOARD ORDER

No. 89 - 6 - H

DIRECTED TO: JOSEPH F. HANDS JR.
2979 Rome St.
Yuma, AZ 85364

7 This Matter came before the Arizona State Board of Pharmacy for hearing
8 on the 18th day of April, 1989 pursuant to Complaint and Notice of Hearing
9 No. 89 - 6 - H (hereinafter referred to as "Complaint"). Norma McConnell,
10 president, presided with Michael Noel, vice-president, and members Sumner "Al"
11 Brooks, Daniel J. Jacob, J. Edward Saba, and Martha Barron in attendance and
12 participating therein.

13 The State was represented by the office of the Attorney General, Timothy
14 Agan, Assistant Attorney General. The respondent JOSEPH F. HANDS JR. was
15 present but was not represented by legal counsel. He was advised that he was
16 entitled to legal counsel but he elected to waive the right.

17 The Board, after consideration of the evidence and testimony presented,
18 hereby makes the following Findings of Fact, Conclusions of Law and Board
19 Order.

20 FINDINGS OF FACT

21 I

22 1. JOSEPH F. HANDS JR. is a pharmacist holding Certificate of Registration
23 Number 5460 issued by the Arizona State Board of Pharmacy pursuant to ARS §
24 32-1922.

1 2. JOSEPH F. HANDS JR. was engaged as the Responsible Pharmacist, as
2 defined in ARS § 32-1901.55, for the Walgreen Drug Co. Store Number 998 located
3 at 3121 4th Avenue, Yuma, Arizona between the dates of June 9, 1987 and October
4 13, 1988.

5 3. Between the dates of June 9, 1987 and October 13, 1988, JOSEPH F. HANDS
6 JR. was responsible for an excessive discrepancy in the records of receipt and
7 disposal of CII Controlled Substances as defined in 21 CFR § 1308.12 and ARS §
8 36-2513 at the Walgreen Drug Co. Store Number 998 in violation of ARS § 32-1901.
9 55 and ACCR R4-23-610.A. Said discrepancies are identified in Schedule "A" of
10 the Complaint.

11 4. Between the dates of June 9, 1987 and October 13, 1988, JOSEPH F. HANDS
12 JR. was responsible for an excessive discrepancy in the records of receipt and
13 disposal of a CIII Controlled Substance as defined in ARS § 36-2514 and 21 CFR
14 § 1308.13 at the Walgreen Drug Co. Store Number 998 in violation of ARS § 32-
15 1901.55 and ACCR R4-23-610.A. Said discrepancies are identified in Schedule "A"
16 of the Complaint.

17 5. Between the dates of June 9, 1987 and October 13, 1988, JOSEPH F. HANDS
18 JR. was responsible for an excessive discrepancy in the records of receipt and
19 disposal of CIV Controlled Substances as defined in ARS § 36-2515 and 21 CFR §
20 1308.14 at the Walgreen Drug Co. Store Number 998 in violation of ARS § 32-1901.
21 55 and ACCR R4-23-610.A. Said discrepancies are identified in Schedule "A" of
22 the Complaint.

23 6. Between the dates of June 9, 1987 and October 13, 1988, JOSEPH F. HANDS
24 JR. did dispense or cause to be dispensed, for his own use, approximately 2440
25 doses of Plegine Tablets 35mg., a CIII Controlled Substance as defined in ARS §
26

1 36-2514 and 21 CFR § 1308.13 without a valid prescription order as defined in
2 ARS § 32-1901.52 in violation of ARS § 36-2525.D and 21 CFR § 1306.21.

3
4 7. Between the dates of June 9, 1987 and October 13, 1988, JOSEPH F. HANDS
5 JR. did dispense or cause to be dispensed, for his own use, approximately 1936
6 doses of Dalmane Capsules 15 mg., a CIV Controlled Substance as defined in ARS §
7 36-2515 and 21 CFR § 1308.14 without a valid prescription order as defined in
8 ARS § 32-1901.52 in violation of ARS § 36-2525.D and 21 CFR § 1306.21.

9 8. Between the dates of June 9, 1987 and October 13, 1988, JOSEPH F. HANDS
10 JR. did dispense or cause to be dispensed, for his own use, approximately 802
11 doses of Dalmane Capsules 30mg., a CIV Controlled Substance as defined in ARS §
12 36-2515 and 21 CFR § 1308.14 without a valid prescription order as defined in
13 ARS § 32-1901.52 in violation of ARS § 36-2525.D and 21 CFR § 1306.21.

14 9. Between the dates of June 9, 1987 and October 13, 1988, JOSEPH F. HANDS
15 JR. did dispense or cause to be dispensed, for his own use, approximately 575
16 doses of Tuinal 100 mg., a CII Controlled Substance as defined in ARS § 36-2513
17 and 21 CFR § 1308.12 without a valid prescription order as defined in ARS § 32-
18 1901.52 in violation of ARS § 36-2525 and 21 CFR § 1306.11.

19 10. Between the dates of June 9, 1987 and October 13, 1988, JOSEPH F. HANDS
20 JR. did dispense or cause to be dispensed, for his own use, approximately 100
21 doses of Tuinal 200 mg., a CII Controlled Substance as defined in ARS § 36-2513
22 and 21 CFR § 1308.12 without a valid prescription order as defined in ARS § 32-
23 1901.52 in violation of ARS § 36-2525 and 21 CFR § 1306.11.

24 11. Stipulation was entered into by JOSEPH F. HANDS JR. that he had used
25 approximately 300 to 400 combined doses per year of Eskatrol, Dexedrine,
26 Dexamyl, Desoxyn, Ritalin, Dalmane, Plegine, and Meproamate from the years

1 1972 through 1976 and up to 1000 doses of like drugs per year from 1976 to
2 June 13, 1987. All of these medications were obtained from Walgreen Drug Co.
3 Store Number 998 in Yuma, Arizona without a valid prescription order as
4 defined in ARS § 32-1901.52 in violation of ARS § 36-2525.D and 21 CFR § 1306.21

5 12. JOSEPH F. HANDS JR. became a patient in a substance abuse center from
6 approximately October 20, 1988 thru November 19, 1988, was discharged with
7 positive prognosis and has made positive after-care progress. Further,
8 JOSEPH F. HANDS JR. is attending approximately two A.A. meetings weekly since
9 his discharge from the substance abuse center.

10 CONCLUSIONS OF LAW

11 II

12 1. The Arizona State Board of Pharmacy has jurisdiction in this matter
13 pursuant to ARS § 32-1904, ARS § 32-1927 and ARS § 32-1928.

14 2. The conduct found in paragraphs two (2) through five (5) constitutes a
15 violation of ARS § 32-1901.55 and ACCR R4-23-610.A in that JOSEPH F. HANDS
16 JR. failed to maintain proper records of receipt and disposal of Controlled
17 Substances as Responsible Pharmacist for Walgreen Drug Co. Number 998 in Yuma,
18 Arizona.

19 3. The conduct found in paragraphs six (6) through eleven (11) constitutes
20 a violation of ARS § 36-2525.D and 21 CFR § 1306.11 and 21 CFR § 1306.21 in that
21 JOSEPH F. HANDS JR. dispensed or caused to be dispensed Controlled Substances
22 for his own use without a valid prescription order as defined in ARS § 32-1901.
23 52.

24 4. Failure to maintain proper records of receipt and disposal of
25 Controlled Substances as Responsible Pharmacist in violation of ARS § 32-1901.55
26 and ACCR R4-23-610.A constitutes grounds to impose disciplinary sanctions

1 pursuant to ARS § 32-1927.B in that JOSEPH F. HANDS violated state laws relating
2 to the distribution of drugs.

3 5. Dispensing Controlled Substances without a valid prescription order
4 constitutes a violation of ARS § 36-2525.D and 21 CFR § 1306.11 and 21 CFR §
5 1306.21 which constitutes grounds to impose disciplinary sanctions pursuant to
6 ARS § 32-1927.B in that JOSEPH F. HANDS violated federal and state laws
7 relating to the distribution of drugs.

8 6. Progress noted in paragraph 12 of the Findings of Fact provides
9 mitigating circumstances in the consideration of the Order.

10 ORDER

11 III

12 1. Certificate Number 5460 issued to JOSEPH F. HANDS JR. is revoked. The
13 revocation is stayed so long as JOSEPH F. HANDS JR. complies with the terms of
14 Board Ordered Probation.

15 2. Certificate Number 5460 issued to JOSEPH F. HANDS JR. is placed on
16 probation effective May 1, 1989 and continuing for the duration of the license.
17 The specific terms of probation are as follows:

- 18 A. JOSEPH F. HANDS JR. shall complete the Arizona Jurisprudence Exam
19 (AZPLEX) with a score of 90% or better within 180 days of this Order.
20 B. JOSEPH F. HANDS JR. shall enroll in the Pharmacists Assisting
21 Pharmacists of Arizona (PAPA or equivalent program) when that program
22 is in place and shall abide by all the requirements of that program.
23 C. JOSEPH F. HANDS JR. shall abstain from the personal use or possession
24 of alcohol or drugs other than those lawfully prescribed by a
25 physician for a legitimate medical need for the duration of the
26 probation.

1 D. JOSEPH F. HANDS Jr. shall supply to the Board of Pharmacy random
2 biological fluid testing results no less often than monthly for the
3 first two years of the probation, thereafter as prescribed by the
4 PAPA (or equivalent program). Until the PAPA (or equivalent program)
5 is in place such tests will be completed within 3 hours from the time
6 ordered by the Board and conducted by a Board accepted testing facil-
7 ity.

8 E. JOSEPH F. HANDS JR. shall bear all costs of compliance with this
9 Order.

10 F. JOSEPH F. HANDS JR. shall bear the responsibility for the release of
11 information forms and reports as directed by the Order and shall
12 "hold harmless" the provider of any required reports to the Board of
13 Pharmacy.

14 G. In the event that JOSEPH F. HANDS JR. violates any terms of this
15 Order or fails or refuses to perform or permit any activities
16 required by this Order the Board may, after opportunity for hearing
17 modify the terms of probation, impose revocation or take any other
18 appropriate disciplinary action authorized by law.

19 H. JOSEPH F. HANDS JR. shall obey all federal and state laws and rules
20 governing the practice of pharmacy.

21 JOSEPH F. HANDS JR. is hereby notified he has the right to petition this
22 Board for a rehearing within (10) days after receipt of this Order pursuant to
23 the provisions of Administrative Rule R4-23-109.
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DATED this 21st day of April, 1989.

ARIZONA STATE BOARD OF PHARMACY

SEAL

By *Llyn A. Lloyd*
Llyn A. Lloyd
Executive Director

Copies of the foregoing
Findings of Fact, Conclusions
of Law and Board Order mailed
by Certified mail this 21st
day of April, 1989 to:

JOSEPH F. HANDS JR.
2979 Rome St.
Yuma, AZ 85364

and by courier mail to:

Timothy Agan
Assistant Attorney General
1275 W. Washington
Phoenix, AZ 85007
Attorney for the State