
STATE BOARD OF PHARMACY JOURNAL

THE STATE BOARD OF PHARMACY

VS

FRANCIS J. FEARON, R.Ph.

THE MATTER OF FRANCIS J. FEARON, DOCKET NO. 6-164-1, WAS HEARD PURSUANT TO CHAPTERS 119. AND 4729. OF THE REVISED CODE ON TUESDAY, JUNE 24, 1986. AFTER CONSIDERATION OF THE EVIDENCE ADDUCED, MOTIONS WERE MADE AND RECORDED THAT THE FOLLOWING ORDER BE ADOPTED:

ORDER

Findings Of Fact

- (1) From the evidence presented, the State Board of Pharmacy finds that Francis J. Fearon, as the responsible pharmacist pursuant to Section 4729.55 of the Revised Code and the pharmacist in full and actual charge of Giant Eagle Pharmacy, Terminal Distributor of Dangerous Drugs License No. 02-404850, pursuant to Section 4729.27 of the Revised Code, is responsible for compliance with all state and federal laws regulating the distribution of drugs and the practice of pharmacy.
- (2) From the evidence presented, the State Board of Pharmacy finds that Giant Eagle Pharmacy illegally possessed dangerous drugs, to wit: approximately 30 tablets of Skelaxin, in containers plainly marked as "Samples". A terminal distributor of dangerous drugs is not authorized, pursuant to Section 3719.81 of the Revised Code, to receive or possess drug samples.
- (3) From the evidence presented, the State Board of Pharmacy finds that a false material statement was made in the application of Giant Eagle Pharmacy for renewal of their terminal distributor of dangerous drugs license, No. 02-404850, on or about October 12, 1984; in that, the question as to whether or not the applicant, or any agent or employee of the applicant, has ever been charged or convicted of a violation of Section 4729.51 of the Ohio Revised Code; the "Federal Food, Drug, and Cosmetic Act"; Federal Controlled Substance Act; Ohio's Pure Food, Drug, and Cosmetic Act; or, Chapter 2925., 3719., or 4729. of the Ohio Revised Code was answered in the negative.
- (4) From the evidence presented, the State Board of Pharmacy finds that a false material statement was made in the application of Giant Eagle Pharmacy for renewal of their terminal distributor of dangerous drugs license, No. 02-404850, on or about October 26, 1985; in that, the question as to whether or not the applicant, or any agent or employee of the applicant, has ever been charged or

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convicted of a violation of Section 4729.51 of the Ohio Revised Code; the "Federal Food, Drug, and Cosmetic Act"; Federal Controlled Substance Act; Ohio's Pure Food, Drug, and Cosmetic Act; or, Chapter 2925., 3719., or 4729. of the Ohio Revised Code was answered in the negative.

- (5) From the evidence presented, the State Board of Pharmacy finds that Francis J. Fearon, the responsible pharmacist for Giant Eagle Pharmacy, was charged with 39 counts of violating Section 3719.16 of the Revised Code by the Summit County Grand Jury on or about the 5th day of August, 1980.
- (6) From the evidence presented, the State Board of Pharmacy finds that Francis J. Fearon, on September 8, 1981, pled guilty to the crime of attempted illegal sale of Schedule V, a stipulated lesser offense, in the Summit County Court of Common Pleas.
- (7) From the evidence presented, the State Board of Pharmacy finds that Francis J. Fearon did, between the dates of January 17, 1979 and August 1, 1980 while practicing pharmacy at Sav Mor Drug, 164 S. Main Street, Akron, Ohio, dispense or sell on at least 105 different occasions to persons within a 48 consecutive hour period more than one preparation exempted by the provisions of Section 3719.15 of the Revised Code. Such conduct is prohibited by Section 3719.16 of the Revised Code.

Conclusions Of Law

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraphs (3), (4), and (7) of the Findings Of Fact constitutes unprofessional conduct in the practice of pharmacy.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraph (6) of the Findings Of Fact constitutes being convicted of a misdemeanor committed in the practice of pharmacy.
- (3) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraphs (2) and (7) of the Findings Of Fact constitutes willfully violating the provisions of Chapter 3719. of the Ohio Revised Code.

Pursuant to Section 4729.16 of the Ohio Revised Code, and the foregoing Findings of Fact and Conclusions Of Law, the State Board of Pharmacy takes the following actions concerning the pharmacist license held by Francis J. Fearon, No. 03-1-05720:

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(A) On the basis of paragraphs (1) and (2) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby suspends the pharmacist identification card held by Francis J. Fearon for 12 months, effective October 1, 1986.

(B) On the basis of paragraph (3) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby imposes a monetary penalty of one thousand dollars (\$1,000.00).

(C) Further, the Board suspends the suspension, and nine hundred dollars (\$900.00) of the monetary penalty, on condition that Francis J. Fearon:

- (1) takes and successfully completes the Jurisprudence examination offered by the Board on September 23, 1986;
- (2) does not violate any drug laws of the state of Ohio, any other state, or the federal government; and
- (3) abides by the rules of the State Board of Pharmacy.

The one hundred dollar (\$100.00) monetary penalty that was not suspended in paragraph (C) above is due and owing within thirty (30) days of the issuance of this Order. Said monetary penalty should be made payable to the "Treasurer, State of Ohio" and mailed to the State Board of Pharmacy, 65 S. Front Street, Room 504; Columbus, Ohio 43266-0320, with the enclosed form.

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

MOTION CARRIED.

SO ORDERED.