



OHIO STATE BOARD OF PHARMACY

77 South High Street, Room 1702; Columbus, OH 43215-6126

-Equal Opportunity Employer and Service Provider-

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ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-051021-041)

In The Matter Of:

THOMAS L. JIRLES, R.Ph.

1911 Meander Drive
Columbus, Ohio 43229
(R.Ph. No. 03-1-08568)

INTRODUCTION

THE MATTER OF THOMAS L. JIRLES CAME FOR HEARING ON JUNE 6, 2006, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: SUZANNE R. EASTMAN, R.Ph. (presiding); GREGORY BRAYLOCK, R.Ph.; ROBERT P. GIACALONE, R.Ph.; ELIZABETH I. GREGG, R.Ph.; LAWRENCE J. KOST, R.Ph.; NATHAN S. LIPSYC, R.Ph.; KEVIN J. MITCHELL, R.Ph.; DOROTHY S. TEATER, PUBLIC MEMBER; AND JAMES E. TURNER, R.Ph.

THOMAS L. JIRLES WAS REPRESENTED BY DAVID W. GRAUER. THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

State's Witness

1. Robert Amiet, Jr., R.Ph., Ohio State Board of Pharmacy

Respondent's Witnesses

1. Thomas L. Jirles, R.Ph., Respondent
2. Scott Tekancic, R.Ph.

State's Exhibits

1. Notice of Opportunity For Hearing letter [10-21-05]
1A-1D. Procedurals
2. State Board of Pharmacy Settlement Agreement In Re Thomas L. Jirles, R.Ph. [06-21-02]
3. Rx #453056 [10-05-04]
4. CVS/Revco #6153 Prescription Register [02-04-05]
5. Letter from Roger Christopher Presutti to Tim Benedict [02-08-05]

Respondent's Exhibits

- A-C. Three Letters of Support [04-13-06 to 04-30-06]

FINDINGS OF FACT

After having heard the testimony, observed the demeanor of the witnesses, considered the evidence, and weighed the credibility of each, the State Board of Pharmacy finds the following to be fact:

(1) Records of the State Board of Pharmacy indicate that Thomas L. Jirles was originally licensed by the State of Ohio as a pharmacist on June 27, 1966, pursuant to examination, and is currently licensed to practice pharmacy in Ohio. Records further reflect that during the relevant time periods stated herein, Thomas L. Jirles was the Responsible Pharmacist at CVS/Pharmacy #6153. Also, records further reflect that on June 21, 2002 Thomas L. Jirles entered into a Settlement Agreement with the Board of Pharmacy.

(2) Thomas L. Jirles did, on or about February 4, 2005, misbrand a drug, to wit: when Thomas L. Jirles received Rx #453056 for Femara, he dispensed Femhrt, which had not been specifically prescribed by the physician. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.

CONCLUSION OF LAW

The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes 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.

DECISION OF THE BOARD

Pursuant to Section 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy adjudicates the matter of Thomas L. Jirles as follows:

On the basis of the Findings of Fact and Conclusion of Law set forth above, the State Board of Pharmacy hereby imposes on Thomas L. Jirles a monetary penalty of two hundred fifty dollars (\$250.00) due and owing within thirty days of the issuance of this Order. The monetary penalty should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed form to the State Board of Pharmacy, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126. The Board further admonishes Thomas L. Jirles for his lack of attentiveness in the practice of pharmacy.

THIS ORDER WAS APPROVED BY A VOTE OF THE STATE BOARD OF PHARMACY (Aye-6/Nay-2).

MOTION CARRIED.

SO ORDERED.

It is hereby certified by this Board that the above language is a copy of the Order entered upon its journal in this case.

Section 119.12 of the Ohio Revised Code authorizes an appeal from this Order. An order that denied admission to an examination, or denied the issuance or renewal of a license or registration, or revoked or suspended a license, may be appealed to the court of common

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pleas in the Ohio county of your place of business or in your Ohio county of residence. Any other order may be appealed to the Court of Common Pleas of Franklin County, Ohio.

Such an appeal, setting forth the order appealed from and the grounds of the appeal, must be commenced by the filing of a Notice of Appeal with both the State Board of Pharmacy and the appropriate court within fifteen (15) days after the mailing of this Order and in accordance with the requirements of Section 119.12 of the Ohio Revised Code.

BY ORDER OF THE STATE BOARD OF PHARMACY

ORDER MAILED & EFFECTIVE: August 10, 2006

CERTIFIED MAIL/Return Receipt
7001 0360 0002 4139 7331

WTW/lf

By: _____
William T. Winsley, M.S., R.Ph., Executive Director

cc: Sally Ann Steuk, Assistant Attorney General

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY

(Docket No. D-010917-011)

In The Matter Of:

THOMAS L. JIRLES, R.Ph.

1911 Meander Drive
Columbus, Ohio 43229
(R.Ph. No. 03-1-08568)

This Settlement Agreement is entered into by and between Thomas L. Jirles and the Ohio State Board of Pharmacy, a state agency charged with enforcing the Pharmacy Practice Act and Dangerous Drug Distribution Act, Chapter 4729. of the Ohio Revised Code.

Thomas L. Jirles enters into this Agreement being fully informed of his rights afforded under Chapter 119. of the Ohio Revised Code, including the right to representation by counsel and the right to a formal adjudication hearing on the issues contained herein.

Thomas L. Jirles is knowingly and voluntarily acknowledging that, in order to settle the disciplinary charges that have been filed by the Board against him and in order to obviate the need to conduct an administrative hearing to consider possible disciplinary sanctions against Thomas L. Jirles' license to practice pharmacy in the State of Ohio, this Agreement is entered into on the basis of the following stipulations, admissions, and understandings:

(A) The Ohio State Board of Pharmacy is empowered by Section 4729.16 of the Ohio Revised Code to suspend, revoke, place on probation, refuse to grant or renew an identification card, or impose a monetary penalty on the license holder for violation of any of the enumerated grounds.

(B) Thomas L. Jirles neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated September 17, 2001; however, the Board has evidence sufficient to sustain the allegations and hereby adjudicates the same:

(1) Records of the Board of Pharmacy indicate that you were originally licensed in the State of Ohio on June 27, 1966, pursuant to examination, and are currently licensed to practice pharmacy in the State of Ohio. Records further reflect during the relevant time periods stated herein, you were the Responsible Pharmacist at CVS Pharmacy #6153 pursuant to Sections 4729.27 and 4729.55 of the Ohio Revised Code and Rule 4729-5-11 of the Ohio Administrative Code.

(2) You did, on or about May 8, 2001, dispense a drug pursuant to prescription without having the correct directions for use indicated on the label affixed to the container, to wit: when dispensing prescription number 267228, you did not indicate the directions for use of the drug as was prescribed by the physician. The patient, an 11-month old child, was administered eight (8) teaspoons of amoxicillin suspension 250mg/5ml twice daily, although prescribed to take eight (8) ml twice daily, the child experienced vomiting and diarrhea for three (3) days as a result. Such conduct is in violation of Rule 4729-5-16 of the Ohio Administrative Code, and if proven constitutes unprofessional conduct in the practice of pharmacy within the meaning of Section 4729.16 of the Ohio Revised Code.

(3) You did, on or about May 8, 2001, misbrand a drug, to wit: when you received prescription number 267228 for amoxicillin suspension 250mg/5ml, to be administered to the patient as eight (8) ml twice daily, you incorrectly labeled the prescrip-

tion container with directions which were dangerous to the patient when consumed according to the label. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code (relating to Section 3715.64(A)(11) of the Ohio Revised Code), and if proven constitutes unprofessional conduct in the practice of pharmacy within the meaning of Section 4729.16 of the Ohio Revised Code.

(4) You did, on or about May 8, 2001, fail to perform prospective drug utilization review, to wit: when dispensing medication to a patient pursuant to prescription number 267228, you failed to review the original prescription for over-utilization, incorrect drug dosage and duration of drug treatment, and misuse. Such conduct is in violation of Rule 4729-5-20 of the Ohio Administrative Code, and if proven constitutes being guilty of unprofessional conduct in the practice of pharmacy within the meaning of Section 4729.16 of the Ohio Revised Code.

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of a formal hearing at this time, Thomas L. Jirles knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

- (A) Pursuant to Sections 4729.16 and 4729.25(B), Thomas L. Jirles is hereby reprimanded for the aforementioned violations of rules and/or laws.
- (B) Thomas L. Jirles agrees to the imposition of a monetary penalty of Two Hundred and Fifty Dollars (\$250.00) due and owing within thirty days from the effective date of this Agreement. The monetary penalty should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed form to the State Board of Pharmacy, 77 South High Street, 17th Floor, Columbus, Ohio 43266-0320.

Thomas L. Jirles acknowledges that he has had an opportunity to ask questions concerning the terms of this agreement and that all questions asked have been answered in a satisfactory manner. Any action initiated by the Board based on alleged violation of this Agreement shall comply with the Administrative Procedure Act, Chapter 119. of the Ohio Revised Code.

Thomas L. Jirles waives any and all claims or causes of action he may have against the State of Ohio or the Board, and members, officers, employees, and/or agents of either, arising out of matters which are the subject of this Agreement. Thomas L. Jirles waives any rights of appeal pursuant to Chapter 119. of the Ohio Revised Code.

This Settlement Agreement shall be considered a public record, as that term is used in Section 149.43 of the Ohio Revised Code, and shall become effective upon the date of the Board President's signature below.

SIGNED AND EFFECTIVE JUNE 21, 2002