



OHIO STATE BOARD OF PHARMACY

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

-Equal Opportunity Employer and Service Provider-

TEL: 614/466-4143

E-MAIL: exec@bop.state.oh.us

FAX: 614/752-4836

TTY/TDD: Use the Ohio Relay Service: 1-800/750-0750

www.pharmacy.ohio.gov

ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-940307-070)

In The Matter Of:

JAMES H. GEYER, R.Ph.

6157 Stilwell Beckett

Oxford, Ohio 45056

(R.Ph. No. 03-1-08652)

INTRODUCTION

THE MATTER OF JAMES H. GEYER CAME TO HEARING ON APRIL 12, 1994, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: JOSEPH R. SABINO, R.Ph. (presiding); ROBERT B. CAVENDISH, R.Ph.; PAUL F. LAMPING, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; WAYNE C. MILLER, R.Ph.; TIMOTHY D. MOORE, R.Ph.; SUZANNE L. NEUBER, R.Ph.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

JAMES H. GEYER WAS REPRESENTED BY MICHAEL T. GMOSE, AND THE STATE OF OHIO WAS REPRESENTED BY GREGG THORNTON, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Michael E. Cluxton, Ohio State Board of Pharmacy
- (2) Cheryl Rooks, Ohio State Board of Pharmacy

Respondent's Witnesses:

- (1) James H. Geyer, Respondent
- (2) Kathy Sue Geyer

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1 - Summary Suspension Order/Notice of Opportunity letter dated March 7, 1994.
- (2) Exhibit 1A - Hearing Request letter dated March 10, 1994.
- (3) Exhibit 1B - Hearing Schedule letter dated March 15, 1994.

- (4) Exhibit 2 - Pharmacist File Front Sheet of James H. Geyer showing original date of registration as August 16, 1966; and Renewal Application for Pharmacist License No. 03-1-08652 of James H. Geyer for a license to practice pharmacy in Ohio from September 15, 1992, to September 15, 1993, signed April 21, 1993.
- (5) Exhibit 3 - Order of the State Board of Pharmacy, Docket No. 6-72-3, in the matter of James H. Geyer dated March 23, 1984.
- (6) Exhibit 4 - Two-page copy of Judgment of Conviction Entry in the Butler County Common Pleas Court, Case No. CR91-03-0217, of James H. Geyer dated May 14, 1991; copy of Entry Appointing Receiver and Letters of Authority in the Butler County Common Pleas Court, Case No. CR91-03-0217, of James H. Geyer dated May 15, 1991; and copy of Entry in the Butler County Common Pleas Court, Case No. CR91-03-0217, of James H. Geyer dated May 14, 1991.
- (7) Exhibit 5 - Two-page copy of Application for Forfeiture of Property in the Butler County Common Pleas Court, case number not noted, of James H. Geyer dated March 25, 1991, with two attachments; copy of Entry Distributing Forfeited Assets in Kind in the Butler County Common Pleas Court, Case No. CR91-03-0217, of James H. Geyer dated September 12, 1991; and listing of articles removed from the building of Muhlberg Drug Store.
- (8) Exhibit 6 - Thirteen-page Dangerous Drug Distributor Inspection Report of Muhlberg Pharmacy, Terminal Distributor No. 02-143900, dated July 31, 1990.
- (9) Exhibit 7 - Four-page "Response to Pink Sheet" of Muhlberg Pharmacy received in the Board office on August 27, 1990.
- (10) Exhibit 8 - 240 miscellaneous adulterated and/or misbranded drugs removed from the shelves of Muhlberg Pharmacy on July 23, 1990.
- (11) Exhibit 8A - Fourteen-page Dangerous Drug Distributor Inspection Report, and two-page list of items removed from Muhlberg Pharmacy, Terminal Distributor No. 02-143900, dated July 23, 1990.
- (12) Exhibit 9 - Accountability Statement of Muhlberg Pharmacy, Terminal Distributor No. 02-143900, for the drug Adipex-P 37.5mg tablets dated August 21, 1990.
- (13) Exhibit 10 - Accountability Statement of Muhlberg Pharmacy, Terminal Distributor No. 02-143900, for the drug Didrex 50mg tablets dated August 21, 1990.
- (14) Exhibit 11 - Accountability Statement of Muhlberg Pharmacy, Terminal Distributor No. 02-143900, for the drug Tylox tablets dated August 21, 1990.
- (15) Exhibit 12 - Accountability Statement of Muhlberg Pharmacy, Terminal Distributor No. 02-143900, for the drug Dilaudid 2mg tablets dated August 21, 1990.
- (16) Exhibit 13 - Accountability Statement of Muhlberg Pharmacy, Terminal Distributor No. 02-143900, for the drug Dilaudid 3mg tablets dated August 21, 1990.
- (17) Exhibit 14 - Accountability Statement of Muhlberg Pharmacy, Terminal Distributor No. 02-143900, for the drug Dilaudid 4mg tablets dated August 21, 1990.
- (18) Exhibit 15 - Accountability Statement of Muhlberg Pharmacy, Terminal Distributor No. 02-143900, for the drug Percodan tablets dated August 21, 1990.
- (19) Exhibit 16 - Accountability Statement of Muhlberg Pharmacy, Terminal Distributor No. 02-143900, for the drug Percocet tablets dated August 21, 1990.
- (20) Exhibit 17 - Accountability Statement of Muhlberg Pharmacy, Terminal Distributor No. 02-143900, for the drug M.S. Contin 60mg tablets dated August 21, 1990.
- (21) Exhibit 18 - Accountability Statement of Muhlberg Pharmacy, Terminal Distributor No. 02-143900, for the drug M.S. Contin 30mg tablets dated August 21, 1990.
- (22) Exhibit 19 - 8½" x 14" yellow paper with handwritten notes regarding property values and debts.

Respondent's Exhibits:

- (1) Exhibit A - Letter from James K. Jackson dated March 28, 1994.

- (2) Exhibit B - Letter from Michael Pechan dated April 5, 1994.
- (3) Exhibit C - Letter from Joseph L. Biron dated April 5, 1994.
- (4) Exhibit D - Letter from Bill Pfennig dated April 3, 1994.
- (5) Exhibit E - Sixty-four page transcript of interview of James Geyer with Cheryl Rooks, Mike Cluxton, Sgt. Leroy Nagle, and Officer Joe Sprague on July 25, 1990.

FINDINGS OF FACT

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

- (1) Records of the Board indicate that James H. Geyer was originally licensed to practice pharmacy in the state of Ohio on August 16, 1966 pursuant to examination. On March 7, 1994, in accordance with Section 3719.121(B) of the Ohio Revised Code, the Board determined that there was clear and convincing evidence that the continuation of James H. Geyer's professional practice and/or his method of distributing controlled substances presented a danger of immediate and serious harm to others; and therefore, James H. Geyer's license was summarily suspended.
- (2) James H. Geyer was disciplined by the Board, on or about March 23, 1984, for having disregarded renewal laws on four separate years by not renewing his license to practice pharmacy in a timely manner and having violated Section 4729.28 of the Ohio Revised Code during such periods.
- (3) James H. Geyer was, on or about May 14, 1991, convicted in the Common Pleas Court of Butler County, Ohio, of Trafficking in Drugs in violation of Section 2925.03 of the Ohio Revised Code, a felony of the second degree; and two counts of Aggravated Trafficking in violation of Section 2925.03 of the Ohio Revised Code, felonies of the third degree. James H. Geyer was sentenced to an indefinite term of incarceration for a minimum of two years up to a maximum of fifteen years and he was ordered to pay a mandatory fine of \$10,000. Additionally, James H. Geyer was ordered to forfeit real and personal property gained from his illegal activities in the net amount of \$2,070,000. The fine and forfeited property have not been paid.
- (4) James H. Geyer, as owner and Responsible Pharmacist pursuant to Sections 4729.55 and 4729.27 of the Ohio Revised Code and Rule 4729-5-11 of the Ohio Administrative Code, did, on or about July 24, 1990, and dates immediately preceding, permit persons other than a registered pharmacist to possess keys to a pharmacy which is not secured by a physical barricade and when personal supervision of the dangerous drug stock was not provided, to wit: James H. Geyer allowed two non-pharmacist employees to possess keys to Muhlberg's Pharmacy. Such conduct is in violation of Rule 4729-9-05 of the Ohio Administrative Code.
- (5) James H. Geyer, as owner and Responsible Pharmacist pursuant to Sections 4729.55 and 4729.27 of the Ohio Revised Code and Rule 4729-5-11 of the Ohio Administrative Code, did, on or about July 24, 1990, and dates immediately preceding, fail to maintain adequate security and supervision and control over the dangerous drugs possessed at Muhlberg's Pharmacy, and dates immediately preceding, to wit: dangerous drugs and controlled substances were found outside of the pharmacy area and not under the care and control of a pharmacist. Such conduct is in violation of Rule 4729-9-11 of the Ohio Administrative Code.

- (6) James H. Geyer, as owner and Responsible Pharmacist pursuant to Sections 4729.55 and 4729.27 of the Ohio Revised Code and Rule 4729-5-11 of the Ohio Administrative Code, failed to maintain records of controlled substances received by Muhlberg's Pharmacy, to wit: on or about July 24, 1990, and dates immediately preceding, James H. Geyer failed to keep on file all D.E.A. 222 order forms used by the pharmacy to order schedule II controlled substances. Such conduct is in violation of Section 3719.07 of the Ohio Revised Code and Rule 4729-9-14 of the Ohio Administrative Code.
- (7) James H. Geyer did, on or about July 24, 1990, and dates immediately preceding, hold or offer for sale drugs that were adulterated and/or misbranded, to wit: during an inspection by Board agents, 240 outdated and misbranded drugs were removed from Muhl-berg's Pharmacy. Such conduct is in violation of Section 3715.52 of the Ohio Revised Code.
- (8) James H. Geyer did, from January 1, 1990, through July 23, 1990, knowingly sell controlled substances in amounts equal to or exceeding three times the bulk amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: James H. Geyer admittedly sold without a prescription and for no legitimate medical purpose the following controlled substances:

| <u>Drug</u> | <u>Schedule</u> | <u>Amount</u> |
|----------------|-----------------|---------------|
| Adipex-P | IV | 22,516 |
| Didrex | III | 28,877 |
| Tylox | II | 3,159 |
| Dilaudid 2mg | II | 2,690 |
| Dilaudid 3mg | II | 1,400 |
| Dilaudid 4mg | II | 1,480 |
| Percodan | II | 12,669 |
| Percocet | II | 5,480 |
| MS Contin 30mg | II | 12,814 |
| MS Contin 60mg | II | 4,590 |

Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code.

CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (3) of the Findings of Fact constitutes being guilty of a felony as provided in Division (A)(1) of Section 4729.16 of the Ohio Revised Code.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (3) through (8) of the Findings of Fact constitute being guilty of gross immorality as provided in Division (A)(1) of Section 4729.16 of the Ohio Revised Code.
- (3) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (3) through (8) of the Findings of Fact constitutes being guilty of dishonesty and unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.
- (4) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (3) through (8) of the Findings of Fact constitutes being guilty of

willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of any of the provisions of Sections 3715.52 to 3715.72 or Chapter 2925., 3719., or 4729. of the Revised Code as provided in Division (A)(5) of Section 4729.16 of the Ohio Revised Code.

ACTION OF THE BOARD

Pursuant to Section 3719.121 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension Order issued March 7, 1994.

Pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy takes the following actions in the matter of James H. Geyer:

- (A) On the basis of the Findings of Fact and paragraph (1) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes the pharmacist license held by James H. Geyer, No. 03-1-08652, effective as of the date of the mailing of this Order.
- (B) On the basis of the Findings of Fact and paragraph (2) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes the pharmacist license held by James H. Geyer, No. 03-1-08652, effective as of the date of the mailing of this Order.
- (C) On the basis of the Findings of Fact and paragraph (3) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes the pharmacist license held by James H. Geyer, No. 03-1-08652, effective as of the date of the mailing of this Order.
- (D) On the basis of the Findings of Fact and paragraph (4) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes the pharmacist license held by James H. Geyer, No. 03-1-08652, effective as of the date of the mailing of this Order.

Division (B) of Section 4729.16 of the Revised Code provides that: "Any individual whose identification card is revoked, suspended, or refused, shall return his identification card and certificate of registration to the offices of the state board of pharmacy within ten days after receipt of notice of such action." The certificate and identification card should be forwarded by certified mail, return receipt requested.

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

MOTION CARRIED.

SO ORDERED.